

BULKY DOCUMENTS

(Exceeds 300 pages)

Proceeding/Serial No: 92044697

Filed: 03-21-2009

Title: Motion for Summary Judgment and Motion

to Amend the Pleadings

Part 1 of 1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE

THE TRADEMARK TRIAL AND APPEAL BOARD

ACM Enterprises, Inc.,

Petitioner,

- against -

Martello, Jeannette, M.D.,

Respondent.

Cancellation No.: 92044697

Filed: March 19, 2009

110 581,387

Wells, M.D.

Certificate of Facsimile Transmission

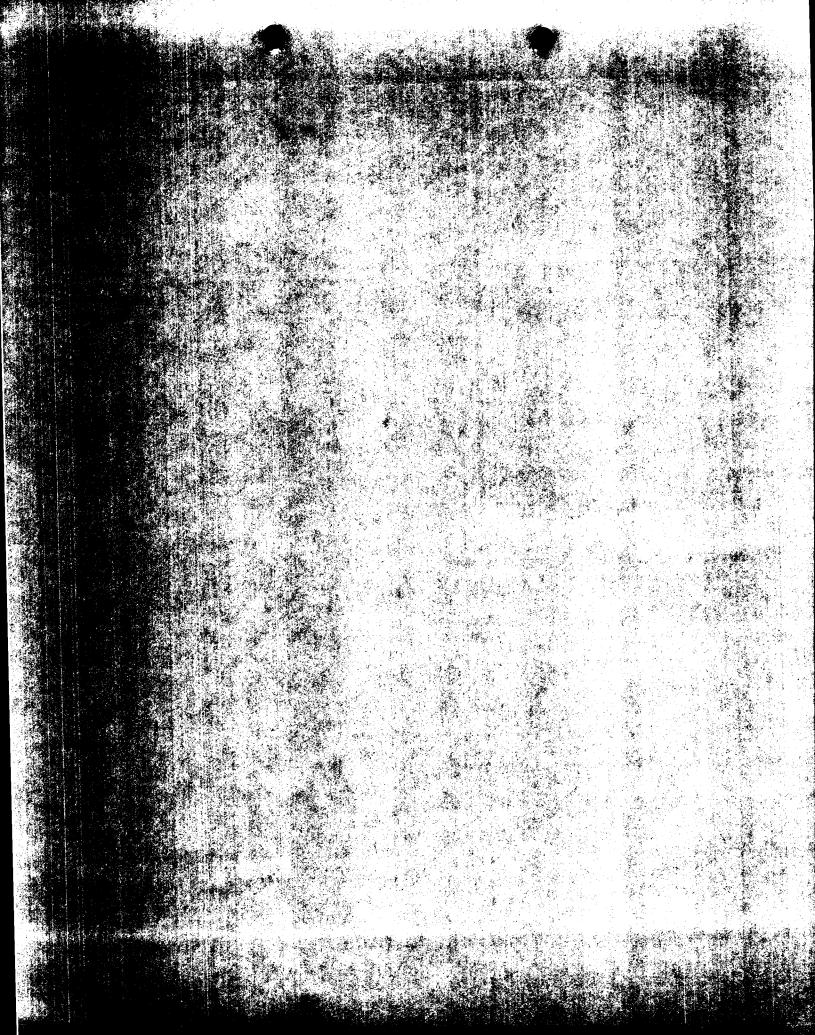
I hereby certify that this correspondence (Pages 1-25, excluding cover page) of the Motion for Summary Judgment and Motion to Amend the Pleadings is being transmitted by facsimile to the United States Patent and Trademark Office on the date shown below.

On March 19, 2009.

Sincerely,

Jeannette Martello, M.D. Respondent In Pro Per

03-21-2009



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| 1 | JEANNETTE MARTELLO, M.D. |
| 2 | 701 Fremont Avenue South Pasadena, CA 91030 |
| 3 | Telephone: (626) 403-1747 Facsimile: (626) 403-1784 |
| 4 | |
| 5 | IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE |
| 6 | THE TRADEMARK TRIAL AND APPEAL BOARD |
| 7 | ACM ENTERPRISES, INC.,) Cancellation No. 92044697 |
| 8 |) |
| 9 | Petitioner,) Filed March 19, 2009 |
| 10 | vs.) |
| 11 | JEANNETTE MARTELLO, M.D.,) |
| 12 | Respondent) |
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| 14 | RESPONDENT'S MOTION FOR SUMMARY JUDGMENT AND |
| 15 | MOTION FOR AMENDMENT OF THE PLEADINGS |
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Respondent Martello (hereinafter "Martello") recently became aware of pertinent information regarding this case. Apparently, Dr. Saul Berger is no longer medical director of the Skin Deep Laser Med Spa. Dr. John Gross is the new medical director. This information was revealed to Respondent in an email from Petitioner's attorney David Hong on December 29, 2008 (Decl. Martello Exh. Page 1).

Given this news, time was needed to conduct a thorough investigation into what bearing this had on the case. A review of the California Secretary of State website was conducted. This revealed that the Berger Medical Corporation had dissolved, but the website did not reveal the date of dissolution. (Decl. Martello Exh. Page 2) Official documents were obtained from the California Secretary of State which revealed that the Berger Medical Corporation dissolved on October 8, 2008. The dissolution of the Berger Medical Corporation and discontinued association of Dr. Berger as the Medical Director of Skin Deep Laser Med Spa have great bearing on this case. With this new information recently revealed, Respondent Martello respectfully requests granting this Motion to Amend the Pleadings to include the additional affirmative defenses of lack of standing and fraud.

Under FRCP Rule 15(a) and the Trademark Rules of Practice 37 CFR 2.115, Respondent Martello respectfully submits this Motion for the Amendment of the Pleadings. Under FRCP Rule 56(a) and Trademark Rules of Practice 37 CFR 2.127, Respondent concurrently submits this Motion for Summary Judgment. Respondent respectfully requests that the Board grant a Motion for Summary Judgment in favor of Respondent and not grant the Petition for Cancellation of the mark. There are no genuine issues of material fact and Respondent is entitled to a judgment as a matter of law.

FACTUAL BACKGROUND

On July 1, 2005, Petitioner ACM Enterprises, Inc. filed a Petition for Cancellation against Respondent's U.S. Registration No. 2932953 (Serial No. 76581387—hereinafter '387). The '387 application was for the mark SKIN DEEP in class 044 for medical services; healthspa services, namely cosmetic body services; cosmetician services and physician services. In its Cancellation petition, ESTTA tracking number 37541, attorney Michelle Katz represented Petitioner ACM Enterprises, Inc. and stated that Petitioner would be damaged by U.S. Registration No. 2932953 for class 44 and petitioned to cancel the mark's Registration. Petitioner was noted to be ACM Enterprises, Inc. DBA

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Skin Deep Laser Med Spa, a California corporation located and doing business at Colin Hurren's residence located at 1981 New York Drive, Altadena, California, 91001.

In paragraph 4 of the Cancellation petition, Petitioner alleged that it had standing to file the Cancellation Petition since it had been "using the mark "SKIN DEEP LASER MED SPA" in connection with the sale of services; providing cosmetic medical treatments . . . all supervised by licensed medical staff since September 1, 2003 in California and since Jan. 16, 2004 in interstate commerce" (Decl. Martello Exh. Page 3)

In paragraph 13 of the Cancellation petition, Petitioner alleged, "Petitioner has continuously used the mark (Skin Deep Laser Med Spa) since Sept. 1, 2003 anywhere and since Jan. 16, 2004 in interstate commerce, and Petitioner's continued and *legal use of said mark* will be impaired by the continued registration of said mark of respondent." *Emphasis added*. (Decl. Martello Exh. Pgs. 4 & 5)

TIMELINE

Articles of Incorporation for Once in a Lifetime Entertainment, Inc. were filed with the California Secretary of State. Article Two explicitly states that it is not a professional corporation.

(Decl. Martello Exh. Page 6) This corporation was formed by Rosser Cole, the same attorney who later formed the Berger Medical Corporation and who subsequently submitted the fictitious name permit application for Dr. Berger.

11/30/1991 A Certificate of Amendment for Once in a Lifetime Entertainment, Inc. was filed. The name was changed to ACM Enterprises, Inc. Colin Hurren and Janet Hurren were listed as the corporation's President and Secretary. (Decl. Martello Exh. Page 7)

9/1/2003 Date that Petitioner alleges that the mark "SKIN DEEP LASER MED SPA" was first used anywhere. (Decl. Martello Exh. Pages 3 through 5) (Decl. Martello Exh. Page 162).

11/19/2003 Skindeeplaser.com was reserved with Register.com. (Decl. Martello Exh. Page 8)

11/23/2003 Colin Hurren sent an email to Melissa of Blue Lounge regarding the fact that the name

Skin Deep Med Spa had just been chosen. (Decl. Martello Exh. Page 9).

Design was to become effective. The work order was for the Skin Deep Med Spa branding project.

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| 1 | The billing address was listed as Colin Hurren's residence. (Decl. Martello Exh. Pages 10 through 13). |
| 2 | Blue Lounge Design is a company owned by Colin Hurren and Dominic Symons. (Decl. Martello Exh. |
| 3 | Pages 14 through 19. Refer specifically to pages 16 and 17). |
| 4 | 12/1/2003 Colin Hurren, President of ACM Enterprises, Inc declared that he had not used the |
| 5 | name, Skin Deep Laser Med Spas, Inc. prior to this date. (Decl. Martello Exh. Page 21). |
| 6 | 12/1/2003 Publication order was placed by Hurren's attorney Rosser Cole. Final publication date |
| 7 | of Skin Deep Laser Med Spas, Inc. was listed as 12/24/2003. (Decl. Martello Exh. Page 23). |
| 8 | 12/26/2003 The Berger Medical Corporation Articles of Incorporation were filed with the |
| 9 | California Secretary of State. (Decl. Martello Exh. Page 24) |
| LO | 12/27/03 Design review work was begun by Ives and Associates for Skin Deep Laser Med Spa |
| L1 | (Decl. Martello Exh. Page 25) |
| L2 | Starting year of the Copyright notice that is present on the bottom of all web pages for |
| 13 | Skin Deep Laser MedSpa's website, www.skindeeplaser.com. (Decl. Martello Exh. Page 26) |
| 14 | 1/5/2004 Urban Telecommunications Invoice to Skin Deep Laser Med Spa for phones. |
| 15 | (Decl. Martello Exh. Page 27) |
| 16 | 1/6/2004 Dimensional Graphics invoice for sign and art work. (Decl. Martello Exh. Page 28) |
| 17 | 1/7/2004 Date that the California Secretary of State issued a certificate for the Berger Medical |
| 18 | Corporation and the corporation came into existence. (Decl. Martello Exh. Page 29) |
| 19 | 1/8/04 Pasadena business license and zoning fees were paid for Skin Deep Laser Med Spa. |
| 20 | (Decl. Martello Exh. Page 30). The business phone number was listed as 791-5880 although it was in |
| 21 | actuality Colin Hurren's home phone number that served as his realtor wife's business fax. |
| 22 | (Decl.Martello Exh. Pages 31 through 33). |
| 23 | Work order was placed for a 9 feet by 7 ½ feet sign from A-G Silk Screen Company. |
| 24 | The sign was to be installed at the corner of Fair Oaks and Del Mar. (Decl. Martello Exh. Page 34). |
| 25 | 1/9/2004-1/10/2004 Computer software program was purchased with ACM Enterprises, Inc.'s |
| 26 | American Express card. (Decl. Martello Exh. Page 35) |

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| 1 | 1/12/2004 A revolving promissory note in the amount of \$500,000 was secured from Comerica |
| 2 | Bank on Colin Hurren's residence located at 1981 New York Drive to secure the obligations of ACM |
| 3 | Enterprises, Inc. (Decl. Martello Exh. Pages 36 through 45) |
| 4 | 1/16/2004 Date that Petitioner alleges that the mark "SKIN DEEP LASER MED SPA" was first |
| 5 | used in interstate commerce. (Decl. Martello Exh. Pages 3 through 5) |
| 6 | 1/21/2004 Facilities and Management Services Agreement was signed by Dr.Berger and Colin |
| 7 | Hurren. (Decl. Martello Exh. Pages 46 through 47). |
| 8 | 1/28/2004 Date of Ives and Associates invoice for design services rendered to Colin and Janet |
| 9 | Hurren with Colin Hurren's residential address listed on the work order. (Decl. Martello Exh. Pg. 25) |
| 10 | 1/28/2004 Email from Alan Gerber from Javanex.com to Melissa at Blue Lounge regarding |
| 11 | website fonts. Skin Deep Laser Med Spa did not yet have a website. (Decl. Martello Exh. 48) |
| 12 | 2/1/2004 Date that the Facilities and Management Services Agreement signed on 1/21/2004 was |
| 13 | to become effective. (Decl. Martello Exh. Pages 46 through 47). |
| 14 | 2/6/2004 Fictitious name permit application was submitted by Dr.Berger to the Medical Board of |
| 15 | California Licensing Program. Dr. Berger's medical practice address was listed as 101 S. First Street, |
| 16 | Suite 1200, Burbank, California. The contact person was listed as R. Rosser Cole, the same attorney |
| 17 | who filed the Articles of Incorporation for Once in a Lifetime Entertainment (which became ACM |
| 18 | Enterprises, Inc.). The application was signed under the penalty of perjury and was executed in |
| 19 | the city of Burbank. (Decl. Martello Exh. Pages 49 through 54). |
| 20 | 2/10/2004 The temporary use permit for a promotional sign expired on this date. The permit was |
| 21 | issued to Patricia Bedford, owner of the commercial building. (Decl. Martello Exh. Page 55). |
| 22 | 2/11/2004 A postcard design was sent from EPP@graphicvisionsla.com email to Melissa of Blue |
| 23 | Lounge. (Decl. Martello Exh. Page 56). This is the email address for pre-press, i.e. before the |
| 24 | postcards were printed. (Decl. Martello Exh. Pages 57 through 58). |
| 25 | 2/28/2004 This is the date that the first web pages for skindeeplaser.com appear on the internet |
| 26 | archive (Decl. Martello Exh. Page 59) |

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| 1 | 3/4/2004 This is the first date that a print advertisement was run for Skin Deep Laser Med Spa |
| 2 | according to evidence produced by Petitioner. (Decl. Martello Exh. Page 60). |
| з | 3/26/2004 A fictitious name permit FNP31957 for Skin Deep Laser Med Spa was issued to |
| 4 | Dr. Berger by the Medical Board of California for Dr. Berger's medical practice located at 101 S. First |
| 5 | Street, Suite 1200, Burbank, California 91502. (Decl. Martello Exh. Pages 61 through 62). |
| 6 | 5/10/2004 and 6/22/2004 Archived www.skindeeplaser.com web pages show only a light blue screen |
| 7 | without text. (Decl. Martello Exh. Pages 63 and 64). |
| 8 | 6/24/2004 Email was sent by Petitioner to Respondent documenting actual confusion between the |
| 9 | two businesses and Respondent's priority of use. (Decl. Martello Exh. Page 65). |
| LO | 8/16/2004 Archived www.skindeeplaser.com web page shows only a light blue screen without text |
| 11 | (Decl. Martello Exh. Page 66). |
| 12 | 8/28/2004 Dr. Berger's medical practice is advertised as being located in Burbank or Encino. No |
| 13 | archived web pages list Dr. Berger's medical practice address as 425 South Fair Oaks, Pasadena, |
| 14 | California. (Decl. Martello Exh. Pages 67 through 83). |
| 15 | 9/1/2004 The Tolucan Times documents that Dr. Berger "has a busy plastic surgery practice in |
| 16 | Burbank". The article touts the sale of skin care products at the location of Skin Deep Laser Med Spa, |
| 17 | 425 South Fair Oaks, Pasadena, California (Decl. Martello Exh. Pages 84 through 85). |
| 18 | 12/29/2004 and 2/3/2005 Archived www.skindeeplaser.com web pages show only a light blue screen |
| 19 | without text. (Decl. Martello Exh. Pages 86 and 87). |
| 20 | 4/6/2005 Web page for Skin Deep Laser MedSpa from the internet archive. The sale of skin care |
| 21 | products at 425 South Fair Oaks is advertised on its website, www.skindeeplaser.com. (Decl. Martello |
| 22 | Exh. Pages 88 through 89). |
| 23 | 1/22/06 Web page submitted as evidence by Petitioner touts skin care product sales at |
| 24 | 425 South Fair Oaks. (Decl. Martello Exh. Page 90). |
| 25 | 1/4/2007 In Los Angeles Superior Court case number GD 040122, Colin Hurren, Petitioner's |
| 26 | President declares his ownership of Skin Deep Laser Medspa and calls Skin Deep Laser Med Spa's |
| 27 | clients, "my patients at the Medspa" (Decl. Martello Exh. Pages 91 through 93) |

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| 1 | 9/2007 | In Los Angeles Superior Court case number GD 040122, Colin Hurren, Petitioner's |
| 2 | President states | , "my company Skin Deep Laser Medspa, in Pasadena." (Decl. Martello Exh. Pages 94 |
| 3 | through 97) | |
| 4 | 11/17/2007 | In Los Angeles Superior Court case number GD 040122, Janet Hurren, Colin Hurren's |
| 5 | wife declared u | nder the penalty of perjury the following. On Exh. Page 99, "We opened the doors of |
| 6 | our new spa bu | siness in March of 2004." Emphasis added. On Exh. Page 100, "I knew that we were |
| 7 | taking loans on | the house to feed the business." On Exh. Page 102, Colin Hurren "has sole control of |
| 8 | our community | business which shows a profit of approximately \$ 27,000 per month The Court |
| 9 | should further | note that this income is not taxed in total because draws it down on the "loan" he |
| 10 | (we) made to the | ne company and he leaves the rest in the business until he is able to shelter it." |
| 11 | (Decl. Martello | Exh. Pages 98 through 104) |
| 12 | 12/20/2007 | In Los Angeles Superior Court case number GD 040122, Colin Hurren, Petitioner's |
| 13 | President decla | ared under the penalty of perjury that Skin Deep Laser Medspa was his sole and separate |
| 14 | property. (Exh | n. Page 105). (Decl. Martello Exh. Pages 105 through 108) |
| 15 | 1/3/2008 | In Los Angeles Superior Court case number GD 040122, Colin Hurren, Petitioner's |
| 16 | President decl | ared under the penalty of perjury "I opened the Skin Deep Laser Medspa in |
| 17 | February 200 | 4. (Exh. Page 110). Emphasis added. Hurren further declared that he took home a |
| 18 | salary from the | e Skin Deep Laser Medspa (Exh. Pages 111 and 112). (Decl. Martello Exh. Pages 109 |
| 19 | through 114). | |
| 20 | 1/14/2008 | In Los Angeles Superior Court case number GD 040122, Colin Hurren, Petitioner's |
| 21 | President decl | ared the following. On Exh. Page 116, Hurren declared that he took a salary from Skin |
| 22 | Deep Laser M | edspa and put money back into the business. The fact that Colin Hurren controlled the |
| 23 | financial aspe | cts of Skin Deep Laser Med Spa is documented when he declared that he gave "opposing |
| 24 | counsel a | memory stick containing the financial data" for Skin Deep Laser Medspa. (Decl. Martello |
| 25 | Exh. Pages 11 | 5 through 117) |
| 26 | 1/17/2008 | For Los Angeles Superior Court case number GD 040122, Colin Hurren (Petitioner's |
| 27 | President) hir | ed accountant Kenneth Walheim to "analyze the community business "Skin Deep" and to |

Petitioner ACM is not entitled to the equitable remedy of Cancellation of the Registration due the fact that Petitioner has acted unethically and in bad faith with respect to the subject matter of the Petition by violating several laws in the formation and conduct of the business, Skin Deep Laser MedSpa. Furthermore, Petitioner ACM has illegally used the name Skin Deep Laser Med Spa.

Count 1. SALES TAX EVASION and Tangible Property Sales without a Seller's Permit Violation of California State Board of Equalization Sales and Tax Regulation 1699

Petitioner ACM has unclean hands. Petitioner is being investigated by the California State

Board of Equalization for sales tax evasion and for selling tangible property without a seller's permit.

Note the document from Mr. Charles Cao, Business Taxes Compliance Specialist with the California State Board of Equalization that verifies the fact that Petitioner has no seller's permit to sell tangible property as defined in Regulation 1699. According to the California State Board of Equalization, this is a direct violation of California Sales and Tax Regulation 1699 which reads "every person engaged in the business of selling . . . tangible personal property . . . is required to hold a permit for each place of business in the state at which transactions relating to sales are customarily negotiated with his or her customers." (Decl. Martello Exh. Pages 153 through 159) Evidence produced by Petitioner reveals that skin care has been sold at Skin Deep Laser Med Spa since at least September 1, 2004 without a seller's permit. (Decl. Martello Exh. Pages 84 through 85).

To make matters worse, Petitioner has collected California sales tax revenue from its customers without turning over the money collected to the state of California. Nadine Tomala, a skin care customer, recently purchased a prescription-strength skin care product from Petitioner and California sales tax was collected by Petitioner. (Note Declaration of Nadine Tomala, Exh. pages 254 through 257). (Decl. Martello Exh. Pages 160 and 161). Petitioner has collected thousands of dollars in sales tax revenue and failed to turn over these monies to the financially unstable state of California.

Although Petitioner has not paid a penny in sales tax to the state of California, Colin Hurren intentionally misrepresented this material fact to the Los Angeles Superior Court. Colin Hurren hired accountant Kenneth Walheim "to analyze the community business "Skin Deep" and determine the value of the business" so as to determine child and spousal support obligations. In order to prepare the Declaration, Mr. Walheim "interviewed Colin Hurren four times" and was provided Skin Deep Laser Med Spa financial data. On page 2 of the Profit and Loss Statement for 2004, (Exh. A), Petitioner claims to have paid \$ 4831.00 in sales tax. (Decl. Martello Exh. Page 126). On page 2 of the Profit and Loss Statement for 2005, (Exh. B), Petitioner claims to have paid \$7599.00 in sales tax. (Decl. Martello Exh. Page 128), On page 2 of the Profit and Loss Statement for 2006 (Exh. C), Petitioner claims to have paid \$11,712.00 in sales tax. (Decl. Martello Exh. Page 130), On page 2 of the Profit and Loss Statement for 2007 (Exh. D), Petitioner claims to have paid \$ 14,610.00 in sales tax and Exh. D (2007). (Decl. Martello Exh. Page 132).

Count 2. Knowledge of Actual Confusion and Respondent's Priority of Use Prior to Petitioner's Filing a Federal Trademark Application

Petitioner's bad faith actions are further documented in a June 24, 2004 email in which Petitioner acknowledges actual confusion between Petitioner's and Respondent's businesses, "Not surprisingly we do get several people contacting us who are looking for you." In this email, Petitioner admits awareness of Respondent's priority of use, "Dear Doctor Martello, Firstly, let me say how much I enjoy your radio show it is now part of my Saturday morning." (Decl. Martello Exh. Page 65). Eight months after this email was sent, with this knowledge, Petitioner filed a false 1(a) verification statement on the trademark application for Skin Deep Laser Med Spa on February 17, 2005 for class 44 (Serial number 78569772). (Decl. Martello Exh. Pages 162 and 163).

ILLEGAL USE OF THE NAME SKIN DEEP LASER MED SPA

Is Petitioner ACM legally using the name Skin Deep Laser Med Spa? According to California laws, the answer is "NO." California Business and Professions Code Sections 2285 and 2415 mandate that a fictitious name permit can only be issued to a licensed physician and surgeon and/or professional medical corporation for use with the physician's own medical practice. (Decl. Martello Exh. Pages 164 through 167) Section 2415(a) reads, "any physician and surgeon . . . or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if . . . the corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing." Section 2415(b) reads, "The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that: (1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons . . . (2) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant." Emphasis added. The fictitious name Skin Deep Laser Med Spa was to be used solely by Dr.Berger for his medical practice located in Burbank, California. The name Skin Deep Laser Med Spa could not be legally used by Petitioner ACM, a non-professional, non-medical corporation.

The Medical Board of California website answers frequently asked questions regarding fictitious

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name permits issued to licensees. Answer 14 (Exh. Page 171) documents that a fictitious name permit can not be transferred. Answer 17 states that a "lay person" can not be "an owner or partial owner of an FNP" (fictitious name permit). Answer 18, fictitious name permits can only be issued to "professional medical corporations." (Exh. Page 172) (Decl. Martello Exh. Pages 168 through 178) The Medical Board of California stresses the illegality of such a "rent-a-license" scheme in its edict entitled, "The Bottom Line" on the medical spa business. (Decl. Martello Exh. Pages 179 through 184) Petitioner ACM is not a professional medical corporation and a fictitious name permit could not be issued to it. Licensed physician Dr. Berger applied for a fictitious name permit for Skin Deep Laser Med Spa. Therefore, only Dr. Berger could use the name Skin Deep Laser Med Spa after the permit was issued to him by the Medical Board of California on March 26, 2004. Dr. Berger could only use the fictitious name Skin Deep Laser Med Spa for his medical practice located at 101 South First Street, Suite 1200, Burbank, California. (Decl. Martello Exh. Pages 49 through 54) According to documentation on the internet, Medical director Dr. Berger has never had a medical practice located at Skin Deep Laser Med Spa, 425 South Fair Oaks, Pasadena, California. His medical practice has been either located in Burbank or in Encino, California. (Decl. Martello Exh. Pages 67 through 83) Additionally, a published article in the Tolucan Times from September 1, 2004 documents the fact that Dr. Saul Berger "has a busy plastic surgery practice in Burbank." (Decl. Martello Exh. Pages 84 through 85) The Los Angeles County Office of Finance documents that his business is presently located in Encino, California. The City of Pasadena states that Dr. Berger and the Berger Medical Corporation have never had a business license in the city of Pasadena. (Decl. Martello Exh. Page 185). Therefore, since Petitioner ACM has been illegally using the name Skin Deep Laser Med Spa, Petitioner has no standing and has perpetrated a fraud on both The Trademark Trial and Appeal Board and on The United States Patent and Trademark 22

Violation of California Corporations Code Section 13402(b)

The business arrangement between Petitioner and Dr. Berger violates the California Moscone Knox Act which governs professional corporations, specifically California Corporations Code Section 13402(b). (Decl. Martello Exh. Page 186) Section13402(b) reads "The conduct of a business in

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this state by a corporation pursuant to a license ... shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by ... a corporation which is not a professional corporation." The business relationship between Petitioner and Dr. Berger was memorialized in the Facilities and Management Services Agreement. In the first paragraph of this agreement, "Company" is defined as Skin Deep Laser Med Spa, Inc., a California Corporation (a non-professional corporation). Emphasis added. Farther down, in paragraph 1.2, "Company" is re-defined, "The term 'Company' shall mean the Professional Corporation, and any affiliates owned principally by the Company." Miraculously, through semantics, Petitioner's non-professional corporation, Skin Deep Laser Med Spa, Inc., a California Corporation transforms itself into a professional corporation. This business arrangement is in direct violation of The California Moscone Knox Act, California Corporations Code Section 13402(b).

Violation of California Corporations Code Section 13403

The business arrangement between Petitioner and Dr. Berger (the Berger Medical Corporation) violates the California Moscone Knox Act which governs professional corporations, specifically California Corporations Code Section 13403. (Decl. Martello Exh. Page 187). According to Code Section 13403, "A professional corporation which has only one shareholder . . . such shareholder . . . shall also serve as the president and treasurer of the corporation." According to the fictitious name permit application filed by Dr. Berger, he was the sole shareholder of the Berger Medical Corporation. (Decl. Martello Exh. Pages 49 through 54). Therefore, according to Section 13403, Dr. Berger should have been both the President and Treasurer/Chief Financial Officer of the Berger Medical Corporation. Petitioner's attorney confirmed that Colin Hurren was the Chief Financial

Officer. (Exh. Page 190). (Decl. Martello Exh. Pages 188 through 191). Colin Hurren listed himself as the Chief Financial Officer on the corporate Statement of Information form filed with the

California Secretary of State on August 29, 2005, certifying that "the corporation certifies the information contained herein . . . is true and correct." (Decl. Martello Exh. Page 152). The fact that Dr. Berger was not the Chief Financial Officer is in direct violation of California Corporations Code Section 13403.

Violation of Business and Professions Code Section 2408

The business arrangement between Petitioner and Dr. Berger (the Berger Medical Corporation) violates California Business and Profession Code Section 2408. (Decl. Martello Exh. Page 192). Section 2408 reads, "Each shareholder, director and officer of a medical or podiatry corporation, except an assistant secretary or an assistant treasurer, shall be a licensed person . . . Nothing in this section shall be construed as prohibiting a nonlicensed person from using the business titles of executive vice president, chief executive officer, executive secretary." Colin Hurren was the Chief Financial Officer of the Berger Medical Corporation, in violation of California Business and Professions Code Section 2408.

Violation of Business and Professions Code Section 2409

The business arrangement memorialized in The Facilities and Management Services Agreement between Petitioner and Dr. Berger (the Berger Medical Corporation) violates California Business and Professions Code Section 2409 that reads, "the income of a medical . . . corporation attributable to professional services rendered while a shareholder is a disqualified person . . . shall not in any manner accrue to the benefit of such shareholder or his or her shares in such a professional corporation." (Decl. Martello Exh. Pages 192 and 193). Accountant Colin Hurren, an unlicensed and disqualified person, drew a salary from the income of the Berger Medical Corporation. In one legal document submitted to the Los Angeles Superior Court, his CEO salary was listed as \$ 132,000. (Decl. Martello Exh. Page 132). Furthermore, Colin Hurren declared under the penalty of perjury that he took home a salary from the Skin Deep Laser Med Spa business. (Decl. Martello Exh. Pages 111, 112 and 116). Janet Hurren, Colin Hurren's wife declared under the penalty of perjury that her husband "had been telling me all along that the business was not making any money, but I observed that he was inuring increasingly frequent and increasingly expensive expenditures which caused me to doubt his representations." (Decl. Martello Exh. Page 101). Since a lay person or lay corporation can not receive income from a medical corporation, Petitioner ACM and lay person Colin Hurren intentionally violated California Business and Professions Code Section 2409.

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Violation of California Corporations Code Section 1901(b)

The fact that Petitioner violated the California Moscone Knox Act is demonstrated by Colin Hurren's completion of the Certificate of Corporate Dissolution for the Berger Medical Corporation.

(Decl. Martello Exh. Page 152). Unlicensed person Colin Hurren completed and signed the Certificate of Corporate Dissolution that was filed with the California Secretary of State. According to California Corporations Code Section 1901(b), the Certificate of Dissolution is supposed to be signed by at least a majority of the directors then in office or by one or more shareholders authorized to do so." (Decl. Martello Exh. Page 194). Although Director and Officer Dr. Berger formed the Berger Medical Corporation, his signature does not appear anywhere on the Certificate of Corporate Dissolution. Since this legal document was not completed by the majority of directors, (Dr. Berger and Colin Hurren), the Certificate was completed and filed by Colin Hurren as a shareholder of the Berger Medical Corporation. In the alternative, if Colin Hurren was not a shareholder of the Berger Medical Corporation, he violated California Corporations Code section 1901(b) by completing and filing the Certificate of Corporate Dissolution for the Berger Medical Corporation on October 8, 2008.

Violation of California Corporation Code Sections 13401.5(a) and 13406(a)

Corporation and had the right to complete and file the Certificate according to California Corporations

Code Section 1901(b), this is a direct violation of the California Moscone Knox Act, specifically

California Corporations Code Sections 13401.5(a) and 13406(a). Section 13401.5(a) reads that only

licensed persons may be shareholders of a medical corporation. (Decl. Martello Exh. Pages 195

through 197). The Medical Board of California stresses that "no stock in a medical corporation may be

owned by a lay-person." (Decl. Martello Exh. Page 174). Section 13406(a) reads, that "shares of

capital stock in a professional corporation may be issued only to a licensed person" (Decl. Martello

Exh. Pages 198 and 199). If Colin Hurren filed the Certificate of Corporate Dissolution for the

Berger Medical Corporation as a shareholder in a professional corporation (as directed by California

Corporations Code section 1901(b)), he was in direct violation of California Corporations Code Section

13401.5(a) and 13406(a) since he was not legally able to be a shareholder of a professional corporation.

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Violation of California Corporations Code Section 13407

Alternatively, if one is to believe the fictitious name permit application completed by

Dr. Berger that was signed under penalty of perjury, no non-physician shareholders existed at the time
of the application's filing on February 6, 2004. (Decl. Martello Exh. Pages 49 through 54). Since Colin
Hurren signed the Certificate as "one or more shareholders authorized to do so" as directed by
California Corporations Code section 1901(b), shares of stock in the Berger Medical Corporation must
have been transferred to Petitioner ACM in violation of California Corporations Code Section 13407
(Decl. Martello Exh. Pages 200 through 201). Section 13407 reads, "shares in a professional
corporation . . . may be transferred only to a licensed person . . . to a person licensed to practice the
same profession . . . or to such professional corporation, and any transfer in violation of this restriction
shall be void." Therefore, if Colin Hurren filed the Certificate of Corporate Dissolution for the Berger
Medical Corporation as a shareholder, he was in direct violation of California Corporations Code
Section 13407 since he was not legally able to become a shareholder of a professional corporation.

Financial statements regarding taxes, debts and liabilities on the Certificate of Corporate

Dissolution for the Berger Medical Corporation were all completed by unlicensed person Colin Hurren,
a man who was not supposed to have any vested financial interest in a professional corporation since he
is not a licensed person. This is in violation of California Corporations Code Section 13401.5(a),
13406(a), Section 13407 and Business and Professions Code Section 2409.

PETITIONER ACM IS ILLEGALLY PRACTICING MEDICINE WITHOUT A LICENSE

Violation of Business and Professions Code Section 2400

According to the Medical Board of California edict, "California law prohibits the corporate practice of medicine. Laypersons or lay entities may not own any part of a medical practice. (Business & Professions Code Section 2400)." (Decl. Martello Exh. Page 202).

Section 2400 reads, "Corporations . . . shall have no professional rights, privileges, or powers."

Petitioner ACM is a lay corporation. (Decl. Martello Exh. Page 6). According to paragraph

1.2 of the Facilities and Management Services Agreement, the term "Company" (Skin Deep Laser Med

Spa) shall mean the Professional Corporation, and any affiliates owned principally by the Company." (Decl. Martello Exh. Page 100). 12 13 14 15 16 17 18 19 Professions Code Section 2400. 20 21 22 23 24

(Decl. Martello Exh. Page 46). According to this agreement, lay entity ACM became the owner of Skin Deep Laser Med Spa, the professional corporation. Colin Hurren is an accountant, a layperson. Colin Hurren declared under the penalty of perjury that he was the owner of Skin Deep Laser Med Spa. (Decl. Martello Exh. Pages 92 and 94) and that the community property of Skin Deep Laser Med Spa was now his sole and separate property. (Decl. Martello Exh. page 105). Numerous press releases (many written by Colin Hurren) tout the fact that he is the owner of Skin Deep Laser Med Spa. Decl. Martello Exh. Pages 203 through 214). Janet Hurren, previous co-owner of Skin Deep Laser Med Spa is a also lay person, a realtor. (Decl. Martello Exh. Page 100). In her declaration for Los Angeles Superior Court case number GD 040122, Janet Hurren declared, "We opened the doors of our new spa business in March of 2004." Emphasis added. (Decl. Martello Exh. Page 99). "It was not until September 1, 2007 that I discovered just how much our spa was making." (Decl. Martello Exh. Page 101). Janet Hurren declared Colin Hurren "has sole control of our community business which shows a profit of approximately \$ 27,000 per month." (Decl. Martello Exh. Page 102). The fact that layperson Colin Hurren now owns solely and layperson Janet Hurren once owned Skin Deep Laser Med Spa as part of community property is a violation of Business & Professions Code Section 2400. Furthermore, since a lay entity such as Petitioner ACM may not own any part of a medical practice, this is also in violation of Business &

Violation of Business and Professions Code Section 2051

Petitioner has violated Business and Professions Code Section 2051 which reads, "the physician's and surgeon's certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions." (Decl Martello Exh. Page 215). The Medical Board of California's Precedential Decision no. MBC-2007-01-Q mandated that "IPL and laser treatment fall within the ambit of these statutes. These medical devices are designed to treat blemishes or physical conditions involving the veins and skin . . . and such tissue

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penetration is not without attendant risks . . . In short, the use of IPL and laser clearly involves penetration of human tissue and therefore falls within the scope of medical practice." (Decl. Martello Exh. Pages 220 and 221 of Pages 216 through 223) Furthermore, according to the Medical Board of California, "the use of prescriptive drugs . . . is the practice of medicine." (Decl. Martello Exh. Page 179 of 179 through 184) Botox Cosmetic® and the wrinkle fillers Restylane®, Juvederm™, Radiesse® and Perlane are all prescription strength. (Decl. Martello Exh. Pages 239 and 240). Petitioner's Skin Care Products touts the fact that it has "an exclusive line of medical grade skin care products" (Decl. Martello Exh. Pages 243 and 246). Lay entity Petitioner ACM has therefore violated Business and Professions Code Section 2051 by illegally practicing medicine without a medical license.

Violation of Business and Professions Code Section 2052(a)

Since Petitioner is not able to legally use the fictitious name Skin Deep Laser Med Spa, it has violated California Business and Professions Code Sections 2052(a) which reads, "any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, *treats*, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment." (Decl. Martello Exh. Page 215) Petitioner ACM touts the fact that Skin Deep Laser Med Spa is a "medical facility" (Decl. Martello, Exh. Pages 226 and 227 of Pages 224 through 229)

Petitioner ACM holds itself out as diagnosing and treating various ailments, disorders and deformities. Skin Deep Laser Med Spa's pamphlet is entitled "Menu of *Treatments*." (Decl. Martello Exh. Pages 230 through 241). This 13 page pamphlet uses the words "treatments", "treat" and "treats"

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69 times. The medical words "therapy", "patients", "injections", "medication" and "diseased" are used throughout the pamphlet. The medical phrases "promote healing", "reverse the aging process", "safe and effective therapies, "safely treated", "medical field", "special medication", "permanent reduction of hair", "stimulates new collagen formation", "safely and selectively blocking the muscles from contracting" are documented throughout. Petitioner's pamphlet emphasizes, 1) "These treatments are safe and effective in removing veins"; 2) "When employed for cosmetic purposes, it is used in minute quantities that cannot harm your body"; "3) "Most of the products selected for use at Skin Deep are developed to be virtually identical to components found naturally in your body or skin structure"; 4) "There may be slight bruising or darkening of the skin at the treatment site." Petitioner's pamphlet recommends alternatives to traditional medical approaches: "These approaches can be a safer alternative over prescribed drugs such as Accutane or long-term antibiotics" and "as a medical spa we are able to offer far more effective skin care solutions through the use of prescription products and medical lasers. We take pride in devoting more time to our clients than can be provided in a traditional medical setting." Without a doubt, lay corporation Petitioner ACM has violated California Business and Professions Code Sections 2052(a) by holding itself out as practicing, any system or mode of treating the sick.

Violation of Business and Professions Code Section 2054(a)

Since Petitioner is not able to legally use the fictitious name Skin Deep Laser Med Spa,

Petitioner has violated California Business and Professions Code Sections 2054(a) which reads, "any

person who uses ... any other terms or letters indicating or implying that he or she ... is entitled to

practice hereunder, or who represents or holds himself or herself out as a physician and surgeon,

physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of

so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter,

is guilty of a misdemeanor." (Decl. Martello Exh. Pages 251 and 252). Petitioner ACM is violating

California Business and Professions Code Section 2054(a) by using the name Skin Deep Laser Med

Spa. The use of the word "Med" in the name Skin Deep Laser Med Spa misleads the public to believe

that medicine is being practiced at the spa. Additionally, according to the Medical Board of California's

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precedential opinion "laser clearly involves penetration of human tissue and therefore falls within the scope of medical practice." (Decl. Martello Exh. Pages 220 and 221 of Pages 216 through 223).

Therefore, the use of the word "Laser" in Skin Deep Laser Med Spa implies that lay entity ACM is entitled to practice medicine. Petitioner has intentionally violated California Business and Professions Code Section 2054(a).

Violation of Business and Professions Code Section 2052(b) and Section 2264

Petitioner ACM and Petitioner's "Medical Directors" Dr. Berger and Dr. Gross have conspired to break California law. Both medical directors have aided and abetted the illegal practice of medicine by lay corporation Petitioner ACM and lay person accountant Colin Hurren in violation of Business and Professions Code Section 2052(b) and Section 2264. Section 2052(b) reads "any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision." (Decl. Martello Exh. Page 215) Section 2264 reads, "The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person . . . to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct." (Decl. Martello Exh. Page 253) Conspiracy is the operative word in this section. Petitioner ACM is not a medical corporation. Colin Hurren is not a licensed person. He is an accountant. Petitioner conspired with Petitioner's previous medical director (Dr. Saul Berger) and Petitioner's present medical director (Dr. John Gross) to aid and abet the illegal practice of medicine. According to the Medical Board of California precedential case, the laser "clearly falls . . . within the scope of medical practice" (Decl. Martello Exh. Pages 220 and 221 of Pages 216 through 223) and "the use of prescriptive drugs... is the practice of medicine." (Decl. Martello Exh. Page 179 of 179 through 184) According to the Bastile case," The objective of section 2264 is the protection of the public from certain forms of treatment." This need for protection and that the sale of prescription strength skincare products is the practice of medicine is obvious in this case. Nadine Tomala declares that she was never informed by Petitioner's nurse Liza Papadopoulos that 4% Hydroquinone could not be used if her mother was pregnant or was trying to get pregnant secondary to its teratogenic effects. (Decl. Martello

Exh. Pages 254 through 269). These disastrous side effects are written in small print on the skin care product's insert. (Decl. Martello Exh. Pages 268 through 269)

FRAUD

For purposes of the Trademark Act, an applicant or registrant commits fraud by knowingly making a false statement as to a material fact in conjunction with a trademark application or registration.

Mister Leonard Inc. v. Jacques Leonard Couture Inc. 23 USPQ2d 1064, 1065 (TTAB 1992). The fraud requirements include the following: the statement in question 1) must be false; 2) must be made with knowledge that it is false; and 3) it must be material. Hasbro, Inc. v. Mitchell W. Goldman, Opposition No. 91152638 to Application Serial No. 76206220 (TTAB 2001).

Previously Submitted 1(a) Trademark Applications

When Petitioner filed the trademark application 1(a) for Skin Deep Laser Med Spa on February 17, 2005 for class 44, Petitioner perpetrated a fraud on The United States Patent and Trademark Office.

According to the 15 USC §1051 requirement for the verified statement regarding Ownership or Entitlement to Use. "In an application based on §1(a), the verified statement must allege that the verifier believes the applicant to be the owner of the mark and that no one else, to the best of his or her knowledge and belief, has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of the other person, to cause confusion or mistake, or to deceive. 15 U.S.C. §1051(a)(3)(A); 37 C.F.R. §2.33(b)(1)."

With respect to the requirements of fraud, Petitioner knew that his material §1(a) verification statement was false when he made it on February 17, 2005. Eight months previous to filling out the 1(a) application, Petitioner emailed Respondent on June 24, 2004. (Decl. Martello Exh. Page 65). In this email communication, Petitioner acknowledged actual confusion and mistake, regarding clients who called Petitioner looking for Respondent, "Not surprisingly we do get several people contacting us who are looking for you." Petitioner has met all of the requirements for fraud and that fraud has been perpetrated on The United States Patent and Trademark Office.

In this June 24, 2004 email, Petitioner acknowledged the fact that Respondent had priority of first use, "Dear Doctor Martello, Firstly, let me say how much I enjoy your radio show it is now part of my

March 19, 2009

Saturday morning." Furthermore, Respondent filed its application for Skin Deep class 44 on March 15, 2004 (Registration number 2932593) (Decl. Martello Exh. Pages 270 and 271) nearly one year before Petitioner filed its application for Skin Deep Laser Medspa class 44 (Serial number 78569772) on February 17, 2005. (Decl. Martello Exh. Pages 162 and 163). This information is posted on the United States Patent and Trademark Office website. Therefore, Petitioner's false material §1(a) verification statement was made with knowledge that it was false at the time that it was made on February 17, 2005. Petitioner has met all of the requirements for fraud and that fraud has been perpetrated on The United States Patent and Trademark Office.

With respect to the requirements of fraud, Petitioner's §1(a) verification statement was false with respect to ownership of the mark. The verified statement "must allege that the verifier believes the applicant to be the owner of the mark." Emphasis added. Petitioner ACM knew that it did not own the fictitious name Skin Deep Laser Med Spa since the fictitious name permit was issued to Dr. Saul Berger and not to Petitioner. Additionally, the fictitious name Skin Deep Laser Med Spa could not be transferred from Dr. Saul Berger to Petitioner ACM. Therefore, Petitioner knew that it did not own the mark Skin Deep Laser Med Spa when the false §1(a) verification statement was made on February 17, 2005. This false material statement was made by Petitioner with knowledge that it was false and the false statement in question was material. But for this fraudulent statement, the registrant would not have been perceived to have had standing to apply for federal trademark registration, much less for this Petition for Cancellation.

When Petitioner filed the 1(a) trademark application for Skin Deep Laser Med Spa on February 17, 2005 for class 3, Petitioner perpetrated a fraud on The United States Patent and Trademark Office. (Decl. Martello Exh. Pages 272 and 273). At the time that Petitioner filed the application for 1(a) use for class 3, Eli Lilly and Company already had a registered mark for Skin Deep for class 3 that it owned since 1976. (Registration number 1046221). Decl. Martello Exh. Pages 274 and 275). This posted information was freely available for review on the United States Patent and Trademark Office website at the time of Petitioner's February 17, 2005 1(a) filing for class 3. Therefore, Petitioner submitted a false material statement, knowing it was false at the time that it submitted it to The United

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27 28 States Patent and Trademark Office. Furthermore, Petitioner did not disclose the existence of Eli Lilly registered trademark for class 3 when Petitioner submitted its own 1 (a) application for class 3.

Petitioner has met all of the requirements for fraud and that fraud has been perpetrated on The United States Patent and Trademark Office.

False Dates of First Use

Petitioner ACM Enterprises, Inc. intentionally misrepresented material facts in the Petition for Cancellation filed on July 1, 2005 by attorney Michelle Katz. In its Petition for Cancellation, paragraphs 4 and 13, Petitioner intentionally misrepresented use of the mark Skin Deep Laser Med Spa anywhere since September 1, 2003 and in interstate commerce since January 16, 2004. The facts of this case contradict the aforementioned dates of September 1, 2003 and January 16, 2004 of first use of the mark Skin Deep Laser Med Spa by Petitioner.

On December 1, 2003, Colin Hurren, President of ACM Enterprises, Inc. signed a fictitious name permit application for Skin Deep Laser Med Spas, Inc. (number 03 3613024) and filed this legal document with the Los Angeles County Recorder/County Clerk. Under item 6, the box that was checked off read "Registrant has not yet begun to transact business under the fictitious business name or names listed herein." This form was signed by Colin Hurren underneath a statement that read "I declare that all information in this statement is true and correct. (A registrant who declares as true information which he or she knows to be false is guilty of a crime." (Decl. Martello Exh. Pages 20 through 22). Petitioner can not have it both ways. Petitioner declared under penalty of perjury that it had not yet begun to use the fictitious name Skin Deep Laser Med Spas, Inc. to transact business as of December 1, 2003. Petitioner made a false material statement that it knew was false when it was made when Petitioner filed its application for Skin Deep Laser Medspa class 44 (Serial number 78569772) on February 17, 2005 and cited a date of first use anywhere as September 1, 2003. (Decl. Martello Exh. Pages 162 and 163). A fraud was perpetrated on The United States Patent and Trademark Office. Furthermore, Petitioner made a false material statement that it knew was false when it was made when Petitioner filed its Petition for Cancellation on July 1, 2005. Under the penalty of perjury, through his attorney Michelle Katz, Petitioner alleged first use anywhere of the mark Skin Deep Laser Med Spa as

early as September 1, 2003. Therefore, a fraud was also perpetrated on The Trademark Trial and Appeal Board.

A myriad of press releases written and submitted by Colin Hurren for publication on the internet proudly tout the fact that Skin Deep Laser Med Spa opened in March of 2004. (Decl. Martello Exh. Pages 276 through 291). First use of the mark anywhere in March of 2004 is supported by Colin Hurren's wife, Janet Hurren who declared that Skin Deep Laser Med Spa opened in March of 2004. (Decl. Martello Exh. Page 99). Colin Hurren declared under penalty of perjury that he opened Skin Deep Laser Medspa in February 2004. (Decl. Martello Exh. Page 110).

The first use of the mark Skin Deep Laser Med Spa anywhere in March of 2004 is supported by the facts. Colin Hurren emailed Melissa of Blue Lounge on November 23, 2003 regarding the fact that they had just decided upon a name, Skin Deep Med Spa. The Berger Medical Corporation did not come into existence until January 7, 2004. The Facilities and Management Services Agreement was not signed between Dr. Saul Berger (Berger Medical Corporation) and Colin Hurren (ACM Enterprises dba Skin Deep Laser Med Spa, a California Corporation) until January 21, 2004 and it became effective on February 1, 2004. Since a number of procedures performed at Skin Deep Laser Med Spa are either performed by a physician or under the supervision of a physician, if first use had indeed been on September 1, 2003 or even on January 16, 2004 as the Petitioner alleges, there would not have been a physician to perform or supervise the procedures that Petitioner listed in his Cancellation Petition. The Petitioner alleged that "cosmetic medical treatments" were performed, "all supervised by licensed medical staff".

The Pasadena business license for Skin Deep Laser Med Spa was not filed with the city of Pasadena until January 8, 2004 and did not become effective until February 1, 2004. Dr. Saul Berger and the Berger Medical Corporation did not file an application for a fictitious name permit for Skin Deep Laser Med Spa (fictitious name permit number 31957) until February 2, 2004. The fictitious name permit for Skin Deep Laser Med Spa was issued to Dr. Saul Berger and the Berger Medical Corporation on March 26, 2004. It is only after March 26, 2004, that the name Skin Deep Laser Med Spa could be used publicly and then only in connection with Dr. Saul Berger's medical practice located at 101 South First

Street, Suite 1200, Burbank, California 91502 (the address of his medical practice listed on the fictitious name permit application with the Medical Board of California). Therefore, Petitioner's first use date of March 2004 coincides more with the unveiled facts.

Petitioner alleged first use anywhere of the mark Skin Deep Laser Med Spa as of

September 1, 2003. That false statement is in direct contradiction to his words (signed under penalty of perjury) and the paper trail of facts. Additionally, Petitioner alleged first use in interstate commerce as

January 16, 2004, a date before Colin Hurren and his wife Janet Hurren declared that Skin Deep Laser

Med Spa opened; a date before Dr. Berger started working with Petitioner; a date before the City of

Pasadena documented that the business opened and a date before a myriad of press releases document its

March 2004 opening. Petitioner made a false material statement that it knew was false when it was made
when Petitioner filed its application for Skin Deep Laser Medspa class 44 (Serial number 78569772) on

February 17, 2005 and cited a date of first use in interstate commerce as January 23, 2004. (Decl.

Martello Exh. Pages 162 and 163). A fraud was perpetrated on The United States Patent and

Trademark Office. Furthermore, Petitioner made a false material statement that it knew was false when it
was made when Petitioner filed its Petition for Cancellation on July 1, 2005. Under the penalty of
perjury, through his attorney Michelle Katz, Petitioner alleged first interstate use of the mark Skin Deep
Laser Med Spa as January 16, 2004. Therefore, a fraud was also perpetrated on The Trademark Trial and
Appeal Board.

<u>Intrastate Use versus Interstate Use</u>

Although Petitioner's attorney David Hong attempted to argue that Trademark Manual of Examining Procedure Section 904.06(b) "allows use of Internet Web Sites showing the mark as proper specimens for trademarks", he was wrong in his broad interpretation. According to the Trademark Manual of Examining Procedure, "an Internet web page that merely provides information about the goods, but does not provide a means of ordering them, is viewed as promotional material, which is not acceptable to show trademark use on goods. See In re Genitope Corp., 78 USPQ2d 1819, 1822 (TTAB 2006). The mere existence of a website or web pages does not prove use in interstate commerce.

The scope of federal trademark jurisdiction is commerce that may be regulated by the United

States Congress. "Rendered in commerce," as required by sections 3 and 45 of the Trademark Act of 1946, 15 U.S.C.A. § 1051 et seq. means "all commerce which may lawfully be regulated by Congress." Article I, § 8 of the United States Constitution provides that "The Congress shall have the Power ... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." According to Trademark Manual of Examining Procedure § 900, "a purely intrastate use does not provide a basis for federal registration." All of the businesses listed in the Thompson and Thompson search that Petitioner's attorney cited in his Motion for Summary Judgment conducted business in intrastate commerce, not interstate commerce.

Petitioner filed a 1(a) trademark application for Skin Deep Laser Med Spa in class 44 (Serial number 78569772) on February 17, 2005 and cited a first date of use in commerce as January 16, 2004. This was the day that the sign was first erected at the business establishment address of 425 South Fair Oaks, Pasadena, California. According to the City of Pasadena, the Skin Deep Laser Med Spa did not open until February 1, 2004 and the agreement between Petitioner and Dr. Berger did not become effective until February 1, 2004. A variety of press reports reveal that Petitioner first opened up Skin Deep Laser Med Spa in March 2004. The name Skin Deep Laser Med Spa could not be used legally by Dr. Saul Berger until March 26, 2004 then only in conjunction with his practice located in Burbank, California. According to the facts of this case, as of January 16, 2004, Petitioner had not even begun to illegally use the fictitious name Skin Deep Laser Med Spa (which he can never own or legally use according to California Law) in intrastate commerce, much less in interstate commerce. When Petitioner submitted its 1(a) federal trademark application for Skin Deep Laser Med Spa in class 44 (Serial number 78569772) on February 17, 2005, Petitioner alleged use of the mark in interstate commerce as of January 23, 2004, a date before intrastate use was even begun. Petitioner made a false, material statement that he knew was false when it was made. By doing so, Petitioner perpetrated a fraud on The United States Patent and Trademark Office. When Petitioner submitted its Petition for Cancellation on July 1, 2005, Petitioner alleged use of the mark in interstate commerce as of January 16, 2004, a date before intrastate use was even begun. Petitioner made a false, material statement that he knew was false when it was made. Therefore, Petitioner also perpetrated a fraud

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on the Trademark Trial and Appeal Board.

LACK OF STANDING

As analyzed above, Petitioner ACM has been illegally using the name Skin Deep Laser Med Spa and therefore has no standing to argue for a Petition for Cancellation much less apply for a federal trademark registration. According to Business and Professions Code Section 2415(a) and 2415(b), a fictitious name permit can only be issued to a professional medical corporation and only in connection with the physician's practice. The physician's medical practice is to be "wholly owned and entirely controlled by the physician applicant" according to Business and Professions Code section 2415(b)(2). This 'wholly owned and entirely controlled" requirement is at direct odds with The Facilities and Management Services Agreement entered into between Colin Hurren (ACM dba Skin Deep Laser Med Spa) and Dr. Saul Berger (Berger Medical Corporation dba Skin Deep Laser Med Spa, A Medical Corporation). In this agreement, Dr. Berger's practice of medicine was to be managed by the non-professional Company, Skin Deep Laser Med Spa, Inc. Petitioner had no standing to file this Petition for Cancellation.

CONCLUSION

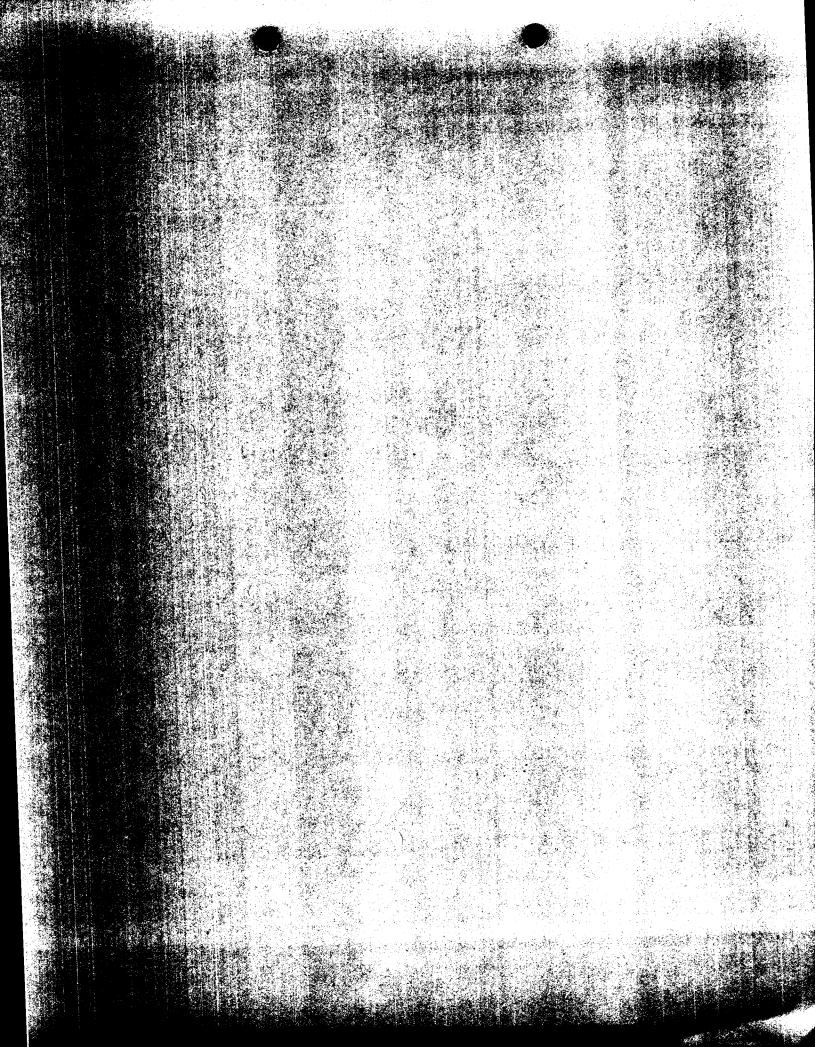
Petitioner has wasted the time of The Trademark Trial and Appeal Board by filing a Petition for Cancellation. Since no genuine issues of material fact exist, Respondent Martello is entitled to a judgment as a matter of law. Respondent respectfully requests a Motion for Summary Judgment on the grounds of fraud, unclean hands and lack of standing.

The undersigned being warned that willful false statements and the like are punishable by fine or Imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of her own knowledge are true; and all statements made on information and belief are believed to be true. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 19, 2009 in South Pasadena, California.

Acquirettelo, M.D., J.D.

Cancellation No. 92044697

Respondent's Motion for Summary Judgment March 19, 2009



IN THE UNITED STATES PATENT AND TRADEMAKR OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ACM Enterprises, Inc.,

Petitioner,

- against -

Martello, Jeannette, M.D.,

Respondent.

Cancellation No.: 92044697

Filed: March 19, 2009

DECLARATION OF JEANNETTE MARTELLO IN SUPPORT OF RESPONDENT'S

MOTION FOR SUMMARY JUDGMENT AND

MOTION TO AMEND THE PLEADINGS

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My name is Jeannette Martello, M.D., J.D. and I am representing myself in pro per for Respondent Jeannette Martello, M.D. My business address is 701 Fremont Avenue, South Pasadena, CA 91030. I am fully competent to make this declaration, and I have personal knowledge of the facts stated in this declaration. To my knowledge, all of the facts stated in this declaration are true and correct.

- 1. On Monday, December 29, 2008, I received an email from Petitioner's attorney David Hong.

 In this email, he stated that Dr. John Gross had recently been made medical director of Skin Deep Laser

 Med Spa. (Decl. Martello Exhibit Page 1).
- 2. On February 14, 2009, I conducted a review of the website for the California Secretary of State, Business Entities Section, http://kepler.sos.ca.gov/list.html. A California Business Search was conducted for the Berger Medical Corporation. The search revealed that the Berger Medical Corporation had dissolved. (Decl. Martello Exhibit Page 2)
- 3. A review of the Petition for Cancellation that was filed on July 1, 2005 was made. (Decl. Martello Exhibit Pages 3 through 5).
- 5. A Preferred Filing and Search Services, Inc. was hired to go in person to the office of the California Secretary of State to obtain all legal documents on Once in a Lifetime Entertainment, Inc. (Decl. Martello Exhibit Page 6)
- 6. A Preferred Filing and Search Services, Inc. was hired to go in person to the office of the California Secretary of State office to obtain all legal documents on ACM Enterprises, Inc. (Decl. Martello Exhibit Page 7)
- 7. The Register.com receipt from 11/19/2003 for the purchase of the URL skindeeplaser.com was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 8)
- 8. The 11/23/2003 email from Colin Hurren to Melissa at Blue Lounge regarding the fact that they had just decided upon a name was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 9)

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Page 1

- 9. The 11/25/2003 marketing agreement between ACM Enterprises, Inc. and Blue Lounge Design was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Pages 10 through 13).
- 10. A computer search was performed on the Los Angeles Superior Court website,

 http://www.lasuperiorcourt.org/civilCaseSummary/index.asp?CaseType=Civil. The key words "Colin Hurren" were used for a party name search. The case of Blue Lounge Design, LLC versus Energy Grip,

 Inc. was found. The plaintiff was listed as Blue Lounge Design, LLC, Company of Colin Hurren &

 Dominic Symons. Colin Hurren had e-filed this Small Claims lawsuit on July 11, 2008. Colin Hurren's name appears as the plaintiff on the bottom of page 3. (Decl. Martello Exhibit Pages 14 through 19).
- 11. I, Jeannette Martello, personally drove down to Norwalk to the office of the Los Angeles County Recorder/Clerk to obtain a certified copy of the fictitious name permit application that was filed by Colin Hurren on December 1, 2003, acting in the capacity as President of ACM Enterprises, Inc. (Decl. Martello Exhibit Pages 20 through 22).
- 12. The December 1, 2003 Daily Commerce order for fictitious name publication was reviewed.

 This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 23).
- 13. A Preferred Filing and Search Services, Inc. was hired to go in person to the office of the California Secretary of State office to obtain all legal documents on the Berger Medical Corporation.

 (Decl. Martello Exhibit Page 24)
- 14. The 12/27/2003 work order for design review from Ives and Associates was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 25)
- 15. The skindeeplaser.com website was reviewed. The starting year of 2004 for the copyright notice was noted. (Decl. Martello Exhibit Page 26)
- 16. The 1/5/2004 invoice from Urban Telecommunications to Skin Deep Laser Med Spa for seven phones was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 27)

17. The 1/6/2004 Dimensional Graphics invoice for sign and art work was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 28)

- 18. A Preferred Filing and Search Services, Inc. was hired to go in person to the office of the California Secretary of State to obtain all legal documents on the Berger Medical Corporation. The California Secretary of State issued a certificate for the Berger Medical Corporation and on that date the corporation came into existence. (Decl. Martello Exhibit Page 29)
- 19. The 1/8/04 Pasadena business license and zoning fees form was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 30).
- 20. On February 17, 2009, a Google internet search was performed for the following phone number, 626-791-5880 and Hurren. The Cortera website was discovered. The website http://www.gmacrealestate.com/find/agents/home/Dilbeck-Realtors-Pasadena-Jan-Hurren/ was also discovered. The home phone number for Colin Hurren and business fax number for Janet Hurren were found. (Decl. Martello Exhibit Pages 31 through 33).
- 21. The 1/8/2004 A-G Silk Screen Company work order was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 34).
- 22. The American Express bill for ACM Enterprises was reviewed. This document was produced by Petitioner during document production. (Decl. Martello Exhibit Page 35).
- 23. An internet search was performed of the Closingpoint.com website which details ownership of properties and legal documents regarding real property. A revolving promissory note from 1/12/2004 in the amount of \$500,000 secured from Comerica Bank on Colin Hurren's residence located at 1981 New York Drive to secure the obligations of ACM Enterprises, Inc. was discovered. (Decl. Martello Exhibit Pages 36 through 45)
- 24. The date of 1/21/2004 is listed on the signature page of the Facilities and Management Services Agreement. This Agreement was entered into by Dr. Saul Berger as President of the Berger Medical Corporation DBA Skin Deep Laser Med Spa, A Medical Corporation and Colin Hurren as President of ACM Enterprises, Inc. dba Skin Deep Laser Med Spa, a California Corporation. Two pages were produced by Petitioner out of a 14 page document. This document was produced by Petitioner during

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| 1 | 33. On February 14, 2009, an internet search was conducted on internetarchive.org for the website | |
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| 2 | www.skindeeplaser.com. The archived web page for 5/10/2004 was printed out. (Decl. Martello | |
| 3 | Exhibit Page 63). | |
| 4 | 34. On February 14, 2009, an internet search was conducted on internetarchive.org for the website | |
| 5 | www.skindeeplaser.com. The archived web page for 6/22/2004 was printed out. (Decl. Martello | |
| 6 | Exhibit Page 64). | |
| 7 | 35. The 6/24/2004 email sent from Colin Hurren to Jeannette Martello documenting actual confusion | |
| 8 | between the two businesses was reviewed. This document was produced by Respondent during | |
| 9 | document production. (Decl. Martello Exhibit Page 65). | |
| 10 | 36. On February 14, 2009, an internet search was conducted on internetarchive.org for the website | |
| 11 | www.skindeeplaser.com. The archived web page for 8/16/2004 was printed out. (Decl. Martello | |
| 12 | Exhibit Page 66). | |
| 13 | 37. On February 14, 2009, an internet search was conducted on internetarchive.org for the website | |
| 14 | www.drberger.com, Dr. Saul Berger's website. Several internet archived web pages for | |
| 15 | www.drberger.com were printed out including the one for 8/28/2004. (Decl. Martello Exhibit Pages 67 | |
| 16 | through 83). | |
| 17 | 38. The 9/1/2004 Tolucan Times article was reviewed. This document was produced by Petitioner | |
| 18 | during document production. (Decl. Martello Exhibit Pages 84 through 85). | |
| 19 | 39. On February 14, 2009, an internet search was conducted on internetarchive.org for the website | |
| 20 | www.skindeeplaser.com. The archived web page for 12/29/2004 was printed out. (Decl. Martello | |
| 21 | Exhibit Pages 86). | |
| 22 | 40. On February 14, 2009, an internet search was conducted on internetarchive.org for the website | |
| 23 | www.skindeeplaser.com. The archived web page for 2/3/2005 was printed out. (Decl. Martello Exhibit | |
| 24 | Page 87) | |
| 25 | 41. An internet search was conducted on internetarchive.org for the website <u>www.skindeeplaser.com</u> . | |
| 26 | The archived web pages for 4/6/2005 were printed out. Skin care product sales were advertised on its | |
| 27 | website. (Decl. Martello Exhibit Pages 88 through 89). | |

reviewed. (Decl. Martello Exh. Pages 160 and 161).

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| 48. | Petitioner's 1(a) federal trademark application (Serial number 78569772) for class 44 for Skin | |
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| Deep | Laser Med Spa that was filed on February 17, 2005 was reviewed. This document was provide | d |
| by Pe | titioner during document production. (Decl. Martello Pages 162 and 163). | |

- 49. An internet Google search was conducted using the search words "California" and "code". The following website was discovered, http://www.leginfo.ca.gov/calaw.html. Every single reference to fictitious name permits was reviewed until California Business and Professions Code Sections 2285 and 2415 were found and reviewed. (Decl. Martello Exh. Pages 164 through 167)
- 50. An internet search was conducted of the Medical Board of California website for the fictitious name permit section. The frequently asked questions and answers section was reviewed.

 (Decl. Martello Exh. Pages 168 through 178)
- 51. Further research was conducted on the Medical Board of California website, under the Licensees section, http://www.medbd.ca.gov/licensee/Index.html. The words "Lasers & Botox" and "Medical Spas" caught my eye while I was online renewing my medical license on February 28, 2009. The edict entitled "The Bottom Line" was found and reviewed. (Decl. Martello Exh. Pages 179 through 184)
- 52. I personally called the Pasadena City Hall, Business License Division, to find out if Dr. Saul Berger and/or the Berger Medical Corporation ever had a business license in the city of Pasadena.

 (Decl. Martello Exh. Page 185)
- 53. An internet Google search was conducted using the search words "California" and "code". The following website was discovered, http://www.leginfo.ca.gov/calaw.html. Every single reference to professional corporations was reviewed until California Corporations Code Sections 13402(b) and 13403 were found and reviewed. (Decl. Martello Exh. Pages 186 and 187).
- 54. The voluminous files from Tesser and Ruttenberg were reviewed. The March 12, 2008 letter from Petitioner's attorney David Hong to Brandon Tesser was reviewed. (Decl. Martello Exh. Pages 188 through 193).
- 55. An internet Google search was conducted using the search words "California" and "code". The following website was discovered, http://www.leginfo.ca.gov/calaw.html. Every single reference to dissolution of a corporation was reviewed until California Corporations Code Section 1901(b) was

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Page 8

63. An internet Google search was conducted using the search words "California" and "code." The

Deep Laser MedSpsa Skin Care Products" (Decl. Martello Exh. Pages 230 through 250).

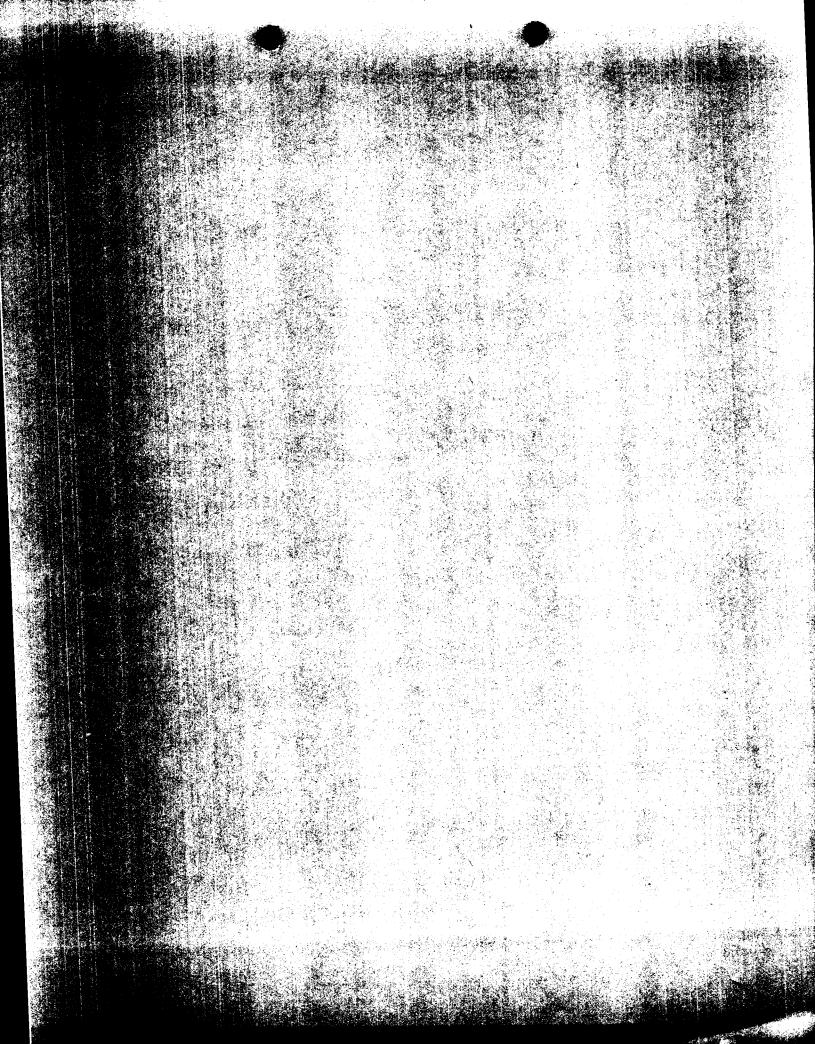
following website was discovered, http://www.leginfo.ca.gov/calaw.html. Every single California Code reference that the Medical Board of California alluded to with respect to advertising and holding oneself out as practicing the art of medicine was searched for. Business and Professions Code Section 2054(a), and 2264 were found and reviewed. (Decl. Martello Exh. Page 251 through 253).

- 64. On December 1, 2008, Nadine Tomala went to Skin Deep Laser Med Spa located at 425 South Fair Oaks to verify that skin care products were sold at this location without a seller's permit.

 (Decl. Martello Exh. Page 254 through 269).
- 65. Respondent's 1(a) federal trademark application for class 44 for "Skin Deep" that was filed on March 15, 2004 (Registration number 2932593) was reviewed. (Decl. Martello Exh. Page 270 and 271).
- 66. Petitioner's 1(a) federal trademark application for class 3 for "Skin Deep Laser MedSpa" that was filed on February 17, 2005 (Serial number 78569898) was reviewed. (Decl. Martello Exh. Page 272 and 273).
- 67. Eli Lily's 1(a) federal trademark application for class 3 for "Skin Deep" that was filed on January 15, 1976 (Registration number 1046221) was reviewed. (Decl. Martello Exh. Page 274 and 275).
- 68. An internet Google search was conducted using the search words "Skin Deep Laser" was conducted. Every single article was reviewed until a few of the releases that were encountered and documented its opening as March 2004 were found and reviewed. A few of these pages were printed out. (Decl. Martello Exh. Pages 276 through 291).

The undersigned being warned that willful false statements and the like are punishable by fine or Imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of her own knowledge are true; and all statements made on information and belief are believed to be true. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 19, 2009 in South Pasadena, California.

Jannotte Markelo, M.D. J.D.



status on meeting scheduling

From: David Hong (david_hong@sbcglobal.net)

Sent: Mon 12/29/08 10:15 AM

To: Jeannette Martello (drmartello@hotmail.com); Jeannette Martello

(martello@skindeepworld.com)

Cc: Colin D. Hurren (colin@skindeeplaser.com); Michelle Katz (michelle@mkatzlaw.com)

Re: Skin Deep Trademark

Dear Dr. Martello:

Happy New Years.

You have not gotten back to us on a meeting time and date for settlement talks. Since we are unable to extend the dates any further per TTAB order, I would like to do the talk as soon as possible in the new year.

Please let me know your schedule again.

Also Mr. Hurren informed me that Dr. John Gross has joined as my client's new medical director and that Dr. Gross is a colleague of yours. I hope that we can reach a suitable resolution to this case.

Very truly yours,

David Hong

David Hong, Esq.,
LAW OFFICE OF DAVID HONG
Patent, Trademark, and Intellectual Property
Mailing Address: P.O. Box 2111, Santa Clarita, CA 91386-2111
E-Mail: david.hong@dhpatentlaw.com or david_hong@sbcglobal.net
866.824.8680 Tel & Fax
805.807.0515 Mobile & Int'l Tel

The information contained in this e-mail is intended only for the individual or entity to whom it is addressed. The contents are confidential and may contain privileged information. If you are not an intended recipient, you must not use, disclose, disseminate, copy or print the contents. If you receive this e-mail in error, please notify the sender by reply e-mail and delete and destroy the message.



Secretary of State DEBRA BOWEN

DISCLAIMER: The information displayed here is current as of FEB 06, 2009 and is updated weekly. It is not a complete or certified record of the Corporation.

| Corporation | | | | |
|------------------------------|------------------------|-------------------|--|--|
| BERGER MEDICAL CORF | ORATION | | | |
| Number: C2570680 | Date Filed: 12/26/2003 | Status: dissolved | | |
| Jurisdiction: California | | | | |
| | Address | | | |
| 425 S FAIR OAKS AVE STE B | | | | |
| PASADENA, CA 91105 | | | | |
| Agent for Service of Process | | | | |
| COLIN HURREN | | | | |
| 425 S FAIR OAKS AVE STE B | | | | |
| PASADENA, CA 91105 | | | | |

Blank fields indicate the information is not contained in the computer file.

If the status of the corporation is "Surrender", the agent for service of process is automatically revoked. Please refer to California Corporations Code Section 2114 for information relating to service upon corporations that have surrendered.

Respondent's Owner of Record is Jeannette Martello, 501 Floral Park Terrace, South Pasadena, CA 91030.

- 4. Standing: Petitioner has been and is now, using the mark "SKIN DEEP LASER MED SPA" in connection with the sale of services: providing cosmetic medical treatments namely laser hair removal, wrinkle correction therapies, removal of birthmarks, spider veins, tattoos, hand and facial skin rejuvenation, acne treatments all supervised by licensed medical staff since Sept. 1, 2003 in California and since Jan. 16, 2004 in interstate commerce. This use has been valid and continuous since the date of first use and has not been abandoned.
- 5. Petitioner has filed for U.S. Trademark Application No. 78569772 on Feb. 17, 2005 for "SKIN DEEP LASER MED SPA" for International Class 044 for the services ("providing cosmetic medical treatments namely laser hair removal, wrinkle correction therapies, removal of birthmarks, spider veins, tattoos, hand and facial skin rejuvenation, acne treatments all supervised by licensed medical staff."). (See Exhibit 2). This mark (SKIN DEEP LASER MED SPA) of Petitioner is symbolic of extensive good will and consumer recognition built up by Petitioner through substantial amounts of time and effort in advertising and promotion. In view of the similarity of the respective marks and the related nature of the services of the respective parties, it is alleged that respondent's registered mark so resembles Petitioner's mark (SKIN DEEP LASER MED SPA) previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

- 10. Count Two: Lack of Use as a Mark Prior to Application or Registration. On information and belief, Petitioner alleges Respondent did not use the mark "Skin Deep" prior to Application or Registration. Looking at all three of the above mentioned Respondent applications, Respondent submitted sales receipts for medical and health spa services within the same time period (Feb. 2004) for the same services (medical and health spa services); Petitioner alleges that Respondent cannot have used all three marks for the same services prior to application or registration. (See Exhibits 1, 3-9).
- 11. Count Three; Fraud. On information and belief, Petitioner alleges Respondent's registration for "Skin Deep" was obtained fraudulently in that the Respondent failed to use the mark in commerce as applied in the following applications. Said statement was made by an authorized agent of respondent (Jeannette Martello) with the knowledge and belief that said statement was false. (See Exhibits 1, 3-9).
- 12. Said false statement was made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration, and, reasonably relying upon the truth of said false statements, the U.S. Patent and Trademark Office did, in fact, grant said registration to respondent.
- 13. Petitioner was damaged by Respondent's alleged false statements and the registration issued. Petitioner has continuously used the mark (Skin Deep Laser Med Spa) since Sept. 1, 2003 anywhere and since Jan. 16, 2004 in interstate commerce, and Petitioner's continued and legal use of said mark will be impaired by the continued registration of

said mark of respondent. As a result, Petitioner respectfully requests that the Commissioner grant this Petition and cancel Registration No. 2932593.

Respectfully Submitted,

Michelle Katz, Esq. Attorney for Petitioner, ACM, Inc.

1804232 FILED

March 70mg En

ARTICLES OF INCORPORATION

OF

ONCE IN A LIFETIME ENTERTAINMENT, INC.

ARTICLE ONE. The name of the corporation shall be Once in a Lifetime Entertainment, Inc.

ARTICLE TWO. The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

ARTICLE THREE. The corporation's initial agent for service of process is Janet Hurren who is located at 4547 Caledonia Way, Los Angeles, California 90065.

ARTICLE FOUR. The aggregate number of shares which the corporation shall have authority to issue is Ten Thousand (10,000), all of which shall be one class.

ARTICLE FIVE. In any action for breach of directors' duties pursuant to Corporations Code Section 309, the liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

Dated: November 14, 1991

Rosser Cole, Rsq.

I hereby declare that I am the person who executed the foregoing Articles of Incorporation, which execution is my act and deed.

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 6

Roseer Cole. Esq.

A0573635

In the Office of the Secretary of Stateof the State of California

CERTIFICATE OF AMENDMENT

NOV 3 0 2001

OF ARTICLES OF INCORPORATION OF

ONCE IN A LIFETIME ENTERTAINMENT, INC. BILL JONES, Secretary of State

Colin Hurren and Janet Hurren, as President and Secretary, hereby certifies that:

- 1. They are the President and Secretary respectively of ONCE IN A LIFETIME ENTERTAINMENT, INC., a California Corporation.
- 2. Article I of the Articles of Incorporation of this corporation is amended to read as follows:

"The name of this corporation is ACM ENTERPRISES, INC."

- 3. The foregoing Amendment of Articles of Incorporation has been duly approved by the Board of Directors.
- 4. The foregoing Amendment of Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Section 902 of the Corporations Code. The total number of outstanding shares of the corporation is One Thousand (1,000). The percentage of shares voting in favor of the amendment was 100%.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of nour own knowledge.

Dated: November 9, 2001

Colin Hurren, President

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009

arch 10, 2009 Page 7

Ianet Hurren Secretary

Subj:

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15 No. (214) 195 30

*Order Total: \$35.00

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Date: Sunday, November 23, 2003 2:13 PM

From: CDHurren@aol.com

To: <melissa@blueloungedesign.com>

Dear Melissa & Dominic,

Things are moving forward at last and we have decided on a name Skin Deep Med Spa. With reference to your proposal I certainly would like to talk to you to see if we can reach agreement on the design of the logo and the website. What I need to work through is that there is a marketing company called Aesthetic Marketing Concepts (AestheticMarketing.com) who have a great deal of industry experience and have very competitive rates. I don't think they are as creative, stylish and as nice as you guys but I need to be thoughtful about my expenditures. Having said that would you like to meet on Monday or Tuesday and I can show you what they have presented and see if there is a way we can do something.

Let me know. Kindest regards, Colin

blueLounge

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NO. 11-5229

DATE OF ISSUE: Tuesday, Nov 25, 2003

This Work Order is entered into by and between BLUE LOUNGE DESIGN INC. ("Blue Lounge") and ACM ENTERPRISES, INC. ("Client) and is incorporated into the Blue Lounge Services Agreement dated as of Nov 25, 2003

01. PROJECT INFORMATION

PROJECT TITLE : Skin Deep Med Spa Branding Project

JOB NO.

: 3976ACM

CLIENT

: ACM Enterprises, Inc.

BILLING ADDRESS: 1981 New York Drive

Altadena, CA 91001

CLIENT'S AUTHORIZED REPRESENTATIVE: Colin Hurren

02. SCOPE OF SERVICES

LASER.

Art direction, design refinement and production supervision of Skin Deep Med Spa Branding Project Project includes: Logo, Stationery, Web site design and development, Postcards, & Pres. Folder.

03. ESTIMATES

| DESCRIPTION: | ESTIMATES: |
|---------------------|--------------|
| Logo and Stationery | US\$800.00 |
| Website Design | US\$1,200.00 |
| Website Programming | US\$800.00 |
| Postcards | US\$200.00 |
| Presentation Folder | US\$300.00 |

TOTAL ESTIMATES:

US\$3,300.00

Reimbursable expenses are currenty estimated at no more than US\$50.00 This shall not exceed the estimated amount without prior CLIENT's approval.

04. ADDITIONAL SERVICES

Fees are based on estimated time to complete the phase or project and shall be adhered to. The fees may only change if the scope of work changes or additional services are required. With CLIENT's approval, any additional services will be billed hourly at the following rates:

Design/production=

US\$50.00

05. SIGNATURES

To begin project, please sign and return this Work Order with an initial payment of US\$1,650.00

32 South Raymond Avenue, Suite 9. Pasadena, CA 91105. United States.

TEL 1 626 564 2802 FAX 1 626 564 2722 www.blueloungedesign.com

Cancellation No. 92044697 **Exhibits - Motion for Summary Judgment** March 10, 2009 Page 10

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blueLounge

DESIGN SERVICES AGREEMENT

This Design Services Agreement ("Agreement") is entered into by and between Blue Lounge Design LLC. ("Blue Lounge"), located at 32 South Raymond Avenue, Suite 9, Pasadena, California 91105 and ACM Enterprises, Inc. ("Client"), located at 1981 New York Drive, Altadena, California 91001 and is dated as of November 25, 2003 ("Effective Date"). Blue Lounge agrees to provide the services defined below to Client and Client agrees to accept the services, subject to the terms and conditions set forth below.

- t. WORK ORDER. Blue Lounge will provide the Services subject to a Work Order and or Proposal executed between Blue Lounge and Client for each project that describes the specific design, illustration and or photographic services to be performed by Blue Lounge, the schedule for and nature of each deliverable, a description of the final implemented product or work ("Work"), as well as the fees, estimated expenses and other terms and conditions for the specific project. The Work Order will incorporate all the terms and conditions of this Agreement, and will be executed by each of the parties. With the exception only of Section 6 below, if any terms of the Work Order (including the Proposal) conflict with the terms of this Agreement, the terms of the Work Order will take precedence. Modifications to any Work Order must be set forth and approved in writing by each of the parties, and shall take into account any additional expenses or delays associated with such modification.
- 2. DELIVERY AND ACCEPTANCE. Blue Lounge agrees to submit the deliverables set forth in each Work Order pursuant to the schedule mutually agreed to by the parties, provided however that any changes requested by Client may require a revised schedule for delivery. Upon receipt of such submission, Client shall promptly review, approve and accept or inform Blue Lounge with specificity the steps that must be taken to approve and accept delivery. The signature of Client's Representative on such approval notice shall be conclusive as to the approval of all artwork drawings and other items prior to their release for printing, fabrication, or installation.
- 3. IMPLEMENTATION OF WORKS. Blue Lounge's services under this Agreement do not include implementation such as printing, fabrication, and installation of the deliverables and/or the Works. Client and Blue Lounge agree that any such implementation is to be provided by others, and the Blue Lounge's services with respect to such implementation shall be restricted to providing specifications, coordination, and quality checking.
- 4. CREDITS. As feasible and appropriate, Client agrees to include the credit to Blue Lounge requested by Blue Lounge. Client shall not materially alter the Work without providing notice to Blue Lounge and the opportunity for Blue Lounge to require removal of the Blue Lounge Credit. Upon receipt of written request from Blue Lounge, Client shall remove such credit from the Work within 10 days.
- 5. FEES/EXPENSES. Client agrees to pay the Fees set forth in each Work Order within 15 days after receipt of such invoice, and shall be in breach of this Agreement if any payment delinquent. In the event of such breach, in addition to all other remedies available to Blue Lounge, Blue Lounge shall have the right to terminate the applicable Work Order, and all rights granted therein shall revert immediately to Blue Lounge. Client shall reimburse Blue Lounge for materials and out-of-pocket expenses plus ten percent (10%) to cover overhead associated with the acquisition of such materials and administration of such expenses. Covered expenses that do not require prior Client approval include without limitation, messengers, mailing, copies, color prints and travel and per diem expenses for services performed outside Los Angeles. The anticipated costs of materials for each Work shall be set forth in each Work Order. Late payments shall bear interest at the lesser of 1.5% per month or the legal rate per annum.

6. OWNERSHIP. Upon full and complete payment by Client to Blue Lounge of all applicable fees set forth in the applicable Work Order, Client shall own such rights in the deliverable delivered to Client by Blue Lounge as expressly set forth in each applicable Work Order. Blue Lounge shall retain ownership all preliminary concepts, drawings, artwork, specifications, and other visual presentation materials created under any Work Order provided such elements are not included in the final Work as accepted for development and/or implementation by Client. Client shall retain ownership of any pre-existing Client data, methods, techniques or processes identified as or incorporated into a deliverable under any Work Order. Blue Lounge may use photographs or samples of any Work for the purpose of demonstrating and advertising the nature and quality of the Blue Lounge services internally and to third parties.

7. STANDARD TERMS.

a. TERM. This Agreement shall commence upon the Effective Date and continue until the end date set forth on the last Work Order to be completed hereunder, unless earlier terminated by either of the parties.

b. TERMINATION.

- i. Prior to completion of any applicable Work Order, Client may terminate this Agreement and any open (i.e. not completed) Work Order, effective five days after sending written notice of termination to Blue Lounge. Upon receipt of termination notice, Blue Lounge will cease work on all open Work Orders, and within 30 days thereafter invoice Client for (1) all outstanding expenses, including also fixed costs for materials, studio and/or any third party contractual payments due and directly related to the applicable open Work Order(s); (2) payment up to the next deliverable in each open Work Order. Upon full payment of the foregoing invoices, Client shall own such rights in the deliverables as set forth in the applicable open Work Orders.
- ii. Blue Lounge may terminate this Agreement or any open Work Order effectively immediately upon sending notice to Client, provided that upon such termination Blue Lounge will cease work on all open Work Orders. In the event that Blue Lounge offers and Client desires to purchase the works created up to the date of termination with respect to open work orders, then Blue Lounge shall deliver such work, and within 30 days thereafter invoice Client for (1) all outstanding expenses, including also fixed costs for materials, studio and/or any third party contractual payments due and directly related to the applicable open Work Order(s); (2) payment up to the next deliverable in each open Work Order. In the event that Client does not desire to purchase the works in progress in connection with any and all open Work Orders, then Blue Lounge will repay any advance payments received from Client in connection with the applicable open Work Orders.
- c. REPRESENTATIONS AND WARRANTIES. Each party represents and warrants that it has the legal authority and the capacity to enter into this Agreement and each Work Order and to perform all of its obligations hereunder.
- d. DISCLAIMER OF WARRANTIES. Blue Lounge agrees to perform the Services provided under this Agreement with a degree of skill and care that is in accordance with the current, generally accepted professional practice and procedures. Blue Lounge expressly disclaims any warranties of merchantability, fitness for a particular purpose or non-infringement with respect to any deliverable or Work, and makes no representations regarding the safety, compliance with laws, rules or regulations concerning the operability, suitability, or hazards of any material or product designed under this agreement. All design, fabrication, and material recommendations are made with the understanding that Client will independently determine their safety and suitability for Client's purposes.
- e. INDEMNIFICATION. Client shall indemnify and save harmless Blue Lounge from and against any and all liabilities, damages, claims, causes of action, suits, proceedings, costs and expenses (including reasonable attorney fees and expenses) asserted against or incurred by Blue Lounge, arising directly or indirectly out of the use of material or products designed under this agreement.
- f. LIMITATION ON LIABILITY. Neither party shall be liable for indirect, special, punitive or consequential damages arising from this Agreement, even if such party has been notified of the possibility of such damages. The liability of Blue Lounge hereunder shall be limited to the amount actually paid to Blue Lounge by Client pursuant to the specific Work Order at issue in any dispute between the parties, excluding reimbursement for expenses and/or materials.

- g. CONFIDENTIALITY. Each party acknowledges that information provided by either party in connection with this agreement may contain confidential and proprietary data, disclosure of such information may be damaging to the disclosing party. During the performance of services under this Agreement it may be necessary for either party to inform the other as to the confidentiality of any material being provided. All confidential material should be protected from disclosure to anyone other than the directors, officers and employees and subcontractors of the receiving party who have need to have access to such information to perform obligations under this agreement. Where appropriate, sub-contractors will be required to undertake non-disclosure agreements, prior to having access to such confidential information.
- h. RELATIONSHIP OF PARTIES. The parties are independent and no party is the agent, joint venturer or partner of the other and, except as expressly provided herein, a party will not be obligated by any agreements, representations or warranties made by the other party to any person, nor with respect to any other action of the other party, nor will a party be obligated for any damages to any person whether caused by the other party's action, failure to act, negligence, or wilful conduct.
- ENTIRE AGREEMENT. This Agreement, and any executed Work Orders contain the sole and entire agreement between the parties and any modifications must be in writing and signed by each party.
- j. ASSIGNMENT/SUCCESSORS. Neither party may assign this Agreement without the prior written consent of the other. This Agreement will be binding upon and will inure to the benefit of the parties, their respective successors, and legal representatives and permitted assigns.
- k. NOTICE. Whenever notice is required under this Agreement, the same will be in writing and delivered personally or mailed to the party involved by registered mail, postage prepaid, to the parties respective address as set forth herein, or to such other address as either party hereto will direct. If notice is mailed as aforesaid, it will be deemed received on the 5th business day following mailing.
- I. If any term or provision of this Agreement, or any Work Order, is held invalid or unenforceable for any reason, the remainder of the provisions of this Agreement and/or Work Order will continue in full force and effect.
- m. GOVERNING LAW AND JURISDICTION AND DISPUTE RESOLUTION. This Agreement is governed and interpreted in accordance with the laws of the United States of America and the State of California. The parties agree to submit any dispute arising hereunder to arbitration, pursuant to the rules of the American Arbitration Association for arbitration of commercial disputes. Arbitration shall take place in the in the County of Los Angeles. The prevailing party shall be reimbursed for its actual costs of arbitration including also reasonable attorneys fees.

This Agreement is entered into between BLUE LOUNGE and CLIENT as of pate set forth on page 1.

BLUE LOUNGE: Melissa Sunjaya

CLIENT: Colin Huren

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES NORTHEAST DISTRICT, PASADENA COURTHOUSE, (-19470-) 300 EAST WALNUT STREET, PASADENA, CA 91101 TELEPHONE: (626) 356-5415

BLUE LOUNGE DESIGN, LLC vs. ENERGY GRIP, INC.

CASE NUMBER: PAS 08S00956

MINUTE ORDER and CLERK'S NOTICE OF RULING

Court convened at 01:30 PM, on 09/03/2008; in Department 007

Present: Honorable EDMOND SEGAL, JUDGE PRO TEM, Judge/Comm. Presiding. JESUS ARROYO , Deputy Clerk; and the following proceedings were had:

PLAINTIFF(S) BLUE LOUNGE DESIGN, LLC COMP OF (NOT) Appearing.

DEFENDANT(S) ENERGY GRIP, INC. (NOT) Appearing.

NATURE OF PROCEEDINGS: CAUSE CALLED FOR SMALL CLAIMS HEARING:

DISPOSITION:
NO APPEARANCE BY OR FOR EITHER PARTY. THE COURT ORDERS CASE DISMISSED WITHOUT PREJUDICE.

The foregoing minutes are correct.

JESUS ARROYO Deputy Clerk

CLERK'S CERTIFICATE OF MAILING/NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Minute Order/Notice of Ruling the above minute order of 09/03/2008 upon each party or counsel named below by depositing in the United States mail at the courthouse in PASADENA, CALIFORNIA, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

BLUE LOUNGE DESIGN, LLC COMP OF HURREN, COLIN & SYMONS, DOMINIC 32 S. RAYMOND AVE. STE. 200 PASADENA, CA 91105

JOHN A. CLARKE Execut ve

Dated 09/16/2008

By JESUS ARROYD, Deputy

Officer/Clerk

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 14

SC-100

Plaintiff's Claim and ORDER to Go to Small Claims Court

Notice to the person being sued:

- You are the Defendant if your name is listed in ② on page 2 of this form. The person suing you is the Plaintiff, listed in ① on page 2.
- You and the Plaintiff must go to court on the trial date listed below. If you
 do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- · Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en 2 de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en 1 de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u
 otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- . Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Clerk stamps date here when form is filed.

Electronically

FILED

By Superior Court of California, County of Los Angeles on

ЛЛ 14 2008

JOHN A. CLARKE, CLERK BY ELIZABETH ARAMBULA, Deputy

Fill in court name and street address:

Superior Court of California, County of

PASADENA COURTHOUSE 300 EAST WALNUT AVE., ROOM 102

PASADENA, CA 91101

Clerk fills in case number and case name:

Case Number: 08S00956

Case Name:

BLUE LOUNGE DESIGN, LLC VS. ENERGY GRIP, INC.

Order to Go to Court

The people in 1 and 2 must go to court: (Clerk fills out section below.)

| Trial Date | | Time | Department | Name and address of court if different from above |
|---------------|-------------|----------------|------------|---|
| Date | 2 | 01:30 PM | 007 | 2ND FLOOR |
| Date: _ | 7/14/2008 . | JOHN A. CLARKE | Clerk, by | ELIZABETH ARAMBUCA, Deputy |

Instructions for the person suing:

- You are the Plaintiff. The person you are suing is the Defendant.
- Before you fill out this form, read Form SC-150, Information for the Plaintiff (Small Claims), to know your rights. Get SC-150 at any courthouse or county law library, or go to: www.courtinfo.ca.gov/forms
- Fill out pages 2 and 3 of this form. Then make copies of all pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each Defendant a court-stamped copy of all 5 pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See Forms SC-104B,
- · Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

WRITTEN REQUEST FOR CONTINUANCE MUST (NCLUDE \$10.00 FE) AND MUST BE SUBMITTED AT LEAST 10 DAYS BEFORE TRIAL DATE

E-FILING ID: 080711000810

Case Number

| BLUE LOUNGE DESIGN, LLC | 08S00956 |
|--|---|
| Plaintiff (list names): | |
| The Plaintiff (the person, business, or public entity that in NAME: BLUE LOUNGE DESIGN, LLC COMP. OF COLIN HURREN & DOM HOME ADDRESS: 32 S. RAYMOND AVE. STE. 200 PASADENA, CA 91105 PHONE: (626) 564-2802 | s suing) is: INIC SYMONS |
| If more than one Plaintiff, list next Plaintiff here: | |
| | |
| ☐ Check here if more than 2 Plaintiffs and attach Form SC-100A. | |
| Check here if either Plaintiff listed above is doing business under a factor of the Defendant (the person, business, or public entity be name: energy grip, inc. HOME ADDRESS: 4340 VON KARMAN AVE. STE.200 NEWPORT BEACH, CA 92660 PHONE: (949) 812-5115 | ictitious name. If so, attach Form SC-103. ing sued) is: |
| MAILING ADDRESS: FREDERICK T. ROGERS, AGENT VON KARMAN AVE.NEWPORT BEACH, CA 92660 If more than one Defendant, list next Defendant here: | |
| \Box Check here if more than 2 Defendants and attach Form SC-100A. | |
| Check here if any Defendant is on active military duty, and write his The Plaintiff claims the Defendant owes \$ 5000.00 a. Why does the Defendant owe the Plaintiff money? DEFENDANT CONTRACTED FOR GRAPHIC SERVICES. WORK PERFORMS | . (Explain below): PEES AS ANARDED BY THE COURT |
| b. When did this happen? (Date): 01/01/2008 | |
| If no specific date, give the time period: Date started: | Through: |
| c. How did you calculate the money owed to you? (Do not include cour ACTUALLY INVOICES CALLED FOR PAYMENT OF \$10,072. | |

Revised January 1, 2008

Plaintiff's Claim and ORDER to Go to Small Claims Court (Small Claims)

SC-100, Page 2 of 5

| Plaintiff (list names): | 08500956 | | | | |
|---|--|--|--|--|--|
| 4 You must ask the Defendant (in person, in writing, o Have you done this? ☑ Yes ☐ No If no, explain why not: | r by phone) to pay you before you sue. | | | | |
| (2) Where the Plaintiff's property was damaged. sign who sign will be sign. | old goods, services, or loans. (Code Civ. Proc., ten the contract was made, if this claim is about § 1812.10.) ten the contract was made, or where the vehicle | | | | |
| 6 List the zip code of the place checked in 5 above (| f you know): 91105 | | | | |
| Is your claim about an attorney-client fee dispute? If yes, and if you have had arbitration, fill out Form SC-101, attack 8 Are you suing a public entity? Yes No | h it to this form, and check here: 🗌 | | | | |
| If yes, you must file a written claim with the entity first. A claim If the public entity denies your claim or does not answer within the Have you filed more than 12 other small claims with Yes No If yes, the filing fee for this case will be higher. | time allowed by law, you can file this form. | | | | |
| I understand that by filing a claim in small claims court, I have no right to appeal this claim. | | | | | |
| I have not filed, and understand that I cannot file, more than two s California during this calendar year. | I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year. | | | | |
| I declare, under penalty of perjury under California State law, that this form is true and correct. | the information above and on any attachments to | | | | |
| Date: 7/11/2008 COLIN HURREN Plaintiff types or prints name here | Plaintiff signs here | | | | |
| Date: Second Plaintiff types or prints name here | Second Plaintiff signs here | | | | |



Requests for Accommodations

Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the trial. Contact the clerk's office for Form MC-410, Request for Accommodations by Persons With Disabilities and Response. (Civil Code, § 54.8.)

Revised January 1, 2008

Plaintiff's Claim and ORDER to Go to Small Claims Court (Small Claims)

SC-100, Page 3 of 5

SC-100

Information for the Defendant (the person being sued)

"Small claims court" is a special court where claims for \$5,000 or less are decided. A "natural person" (not a business or public entity) may claim up to \$7,500, including a sole proprietor. The process is quick and cheap. The rules are simple and informal.

You are the Defendant—the person being sued. The person who is suing you is the Plaintiff.

Do I need a lawyer?

You may talk to a lawyer before or after the case. But you may not have a lawyer represent you in court (unless this is an appeal from a small claims case).

How do I get ready for court?

You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that supports your case. And read "Get Ready for Court" at: www.courtinfo.ca.gov/selfhelp/smallclaims/getready.htm

What if I need an accommodation?

If you have a disability or are hearing impaired, fill out Form MC-410, Request for Accommodations. Give the form to your court clerk or the ADA/Access Coordinator.

What if I don't speak English well?

Bring an adult who is not a witness to interpret for you, or ask the court clerk for an interpreter at least five days before your court date. A court-provided interpreter may not be available or there may be a fee for using a court interpreter unless you qualify for a fee waiver. You may ask the court for a list of interpreters and also the Application for Waiver of Court Fees and Costs (form FW-001).

Where can I get the court forms I need?

Go to any courthouse or your county law library, or print forms at: www.courtinfo.ca.gov/forms

What happens at the trial?

The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

What if I lose the case?

If you lose, you can appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file Form SC-140, Notice of Appeal. You must file within 30 days after the judge's decision.
- If you were not at the trial, fill out and file Form SC-135, Notice of Motion to Vacate Judgment and Declaration, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File Form SC-140.

For more information on appeals, see: www.courtinfo.ca.gov/selfhelp/smallclaims/appeal.htm

Do I have options?

Yes. If you are being sued, you can:

- Settle your case before the trial. If you and the Plaintiff agree on how to settle the case, both of you must notify the court. Ask the Small Claims Advisor for help.
- Prove this is the wrong court. Send a letter to the court before your trial, explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done this.)
- Go to the trial and try to win your case. Bring witnesses, receipts, and any evidence you need to prove your case. To make sure the witnesses go to the trial, fill out Form SC-107, and the clerk will subpoena (order) them to go.
- Sue the person who is suing you. File Form SC-120, Defendant's Claim. There are strict filing deadlines you must follow.
- Agree with the Plaintiff's claim and pay the money. Or, if you can't pay the money now, go to your trial and say you want to make payments.
- Let the case "default." If you don't settle and do not go to the trial (default), the judge may give the Plaintiff what he or she is asking for plus court costs. If this happens, the Plaintiff can legally take your money, wages, and property to pay the judgment.

What if I need more time?

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial) or
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county) or
- You need more time to get an interpreter. One
 postponement is allowed, and you will not have to pay
 a fee to delay the trial.

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out Form SC-110 (or write a letter) and mail it to the court and to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.



Need help?

Your county's Small Claims Advisor can help for free.

Small Claims Advisors are available Monday thru Friday, 8:30 A.M. to 4:30 P.M. at the County Hall of Administration 500 West Temple Street, Room B96, Los Angeles 90012 or by calling (213) 974-9759.

Or go to "County-Specific Court Information" at: www.courtinfo.ca.gov/selfhelp/smallclaims

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Revised January 1, 2008

SC-100

Información para el demandado (la persona demandada)

La "Corte de reclamos menores" es una corte especial donde se deciden casos por \$5,000 ó menos. Una "persona natural" (que no sea un negocio ni una entidad pública) puede reclamar hasta \$7,500. El proceso es rápido y barato. Las reglas son sencillas e informales.

Usted es el Demandado — la persona que se está demandando. La persona que lo está demandando es el Demandante.

¿Necesito un abogado?

Puede hablar con un abogado antes o después del caso. Pero no puede tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

¿Cómo me preparo para ir a la corte?

No tiene que presentar ningunos papeles antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos, y cualquier pruebas que apoyan su caso. Y lea "Prepárese para la corte" en: www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/prepararse.htm

¿Qué hago si necesito una adaptación?

Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario MC-410, Request for Accomodations. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

¿Qué pasa si no hablo inglés bien?

Traiga a un adulto que no sea testigo para que le sirva de intérprete. O pida al secretario de la corte que le asigne uno. Si quiere que la corte le asigne un intérprete, lo tiene que pedir como minimo menos cinco dias antes de la fecha en que tenga que ir a la corte. Es posible que no haya disponible un intérprete proporcionado por la corte o que tenga que pagar una cuota por emplear un intérprete de la corte, a menos que tenga una exención de cuotas. Puede pedir a la corte una lista de intérpretes y la Solicitud de exención de cuotas y costos de la corte (formulario FW-001).

¿Dónde puedo obtener los formularlos de la corte que necesito?

Vaya a cualquier edificio de la corte, la biblioteca legal de su condado o imprima los formularios en: www.courtinfo.ca.gov/forms

¿Qué pasa en el juicio?

El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

¿Qué pasa si pierdo el caso?

Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, Aviso de apelación. Tiene que presentarlo dentro de 30 días depués de la decisión del juez.
- Si no estuvo en el juicio, llene y presente el formulario SC-135, Aviso de petición para anular el fallo y Declaración para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea: www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/ apelar.htm ¿Tengo otras opciones?

Sí. Si lo están demandando, puede:

- Resolver su caso antes del juicio. Si usted y el Demandante se ponen de acuerdo en resolver el caso, ambos tienen que notificar a la corte. Pídale al Asesor de Reclamos Menores que lo ayude.
- Probar que es la corte equivocada. Envíe una carta a la corte antes del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- Ir al Julcio y tratar de ganar el caso. Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Para asegurarse que los testigos vayan al juicio, llene el formulario SC-107, y el secretario emitirá una orden de comparecencia ordenándoles que se presenten.
- Demandar a la persona que lo demandó. Presente el formulario SC-120, Reclamo del demandado. Hay fechas límite estrictas que debe seguir.
- Aceptar el reclamo del Demandante y pagar el dinero. O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos.
- No ir al juicio y aceptar el fallo por falta de comparecencia. Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.

¿Qué hago si necesito más tiempo?

Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio) o
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado) o
- Necesita más tiempo para conseguir intérprete. (Se permite un solo aplazamiento sin tener que pagar cuota para aplazar el iuicio).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-110 (o escriba una carta) y envielo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.



¿Necesita ayuda? El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

Small Claims Advisors are available Monday thru Friday, 8:30 A.M. to 4:30 P.M. at the County Hall of Administration 500 West Temple Street, Room B96, Los Angeles 90012 or by calling (213) 974-9759.

O vea "Información por condado" en: www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores

Revised January 1, 2008

Reclamo del Demandante y ORDEN Para Ir a la Corte de Reclamos Menores (Reclamos Menores) SC-100, Page 5 of 5

RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

11:01 AM DEC 01 2003

D.T.T

TITLE(S): Fictitious Name Statement



FEE

\$10.00

CODE

20

CODE

19

CODE

9

Assessor's Identification Number (AIN)
To be completed by Examiner OR Title Company in black ink.

Number of Parcels Shown

THIS FORM NOT TO BE DUPLICATED

Name: R. Rosser Cole

200 N. Maryland Ave., Suite 302 Address:

Glendale , CA 91206 City:

03 3613024

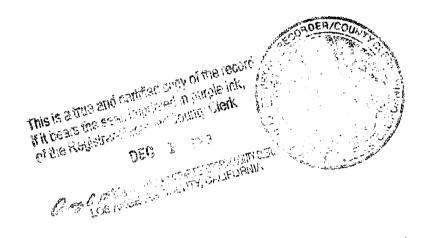
| 1 | ☐ First Filing ☐ Renewal Filing | | | |
|----------|---|--------------------------------------|---|--|
| | | FICTITIOUS BUSINESS NAM | E STATEMENT | |
| | THE FOLLOWING PERSON | N(S) IS (ARE) DOING BUSINES | SS AS: (Attach additional pages if requ | ired) |
| | Fictitious Business Name(s) | | 3. | |
| | 1. Skin Deep Laser Med | Spas, Inc. | | |
| 2 | 2. | • | Articles of Incorporation or Organiza | tion Number (if applicable) |
| - | | | AI #/ON 1804232 | Zip Code |
| 2 | Street Address & City of Principal Place of Bu | siness in California (P.O. Box alor | ne not acceptable) | 91001 |
| 3 | 1981 New York Dr., A | ltadena, CA | (if corporation - incorporated in what s | |
| 4 | Full name of Registrant ACM Enterprises Inc. | - A California | Corporation | |
| 4 | Residence Street Address | City | State | Zip Code |
| | 1981 New York Dr., A | | 1 | |
| | Full name of Registrant | | (if corporation - incorporated in what s | state) |
| 4A | | | | Ti- Code |
| | Residence Street Address | City | State | Zip Code |
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| 4B | Full name of Registrant | | (ii corporation - incorporation in insist | , |
| טדן | | City | State | Zip Code |
| 1 | Residence Street Address | Ony | | |
| - |)i_dididool | () a general partnership | () joint venture (|) a business trust |
| 5 | This Business is () an individual conducted by: () co-partners | () husband and wife | (XX) a corporation (|) a ilmited partnership |
| 3 | (check one only) () an unincorporated association other than a partnership () a limited liability company | | | |
| \vdash | () The registrent commenced to transact | | | |
| 6 | (X) Registrant has not yet begun to transe | act business under the fictitious bu | siness name or names listed herein. | |
| \vdash | 1.4- | -less that all information in this | statement is true and correct. | |
| 7 | (A registrant who dec | lares as true information which I | ne or she knows to be false is guilty of a c | rime.) |
| | Signature of Registra | nt(s) | BA ACM Enterprises | |
| | 8 | | <u> </u> | |
| | Signature | type/print name | Corporation or Company | T and |
| ļ | | - Indiat more | Signature | ` |
| 1 | Signature | type/print name | President | |
| | Signature | type/print name | Title | |
| 1 | Colin Hurren | | | |
| | Signature | type/print name | Type or Print Name | } |
| | nis statement was filed with the County Clerk of | LOS ANGE | | ndicated by file stamp above. |
| — | | PURIORS FRIT VEARS FROM D | ATE IT WAS FILED IN THE OFFICE OF TH | E COUNTY CLERK. A NEW |
| FI | OTICE - THIS FICTITIOUS NAME STATEMENT CTITIOUS BUSINESS NAME STATEMENT MUS | ST BE FILED PRIOR TO THAT DA | TE. The filing of this statement does not of it | iself authorize the use in this 4411 et seq., Business and |
| st | CTITIOUS BUSINESS NAME STATEMENT MUS ate of a fictitious business name in violation of refessions Code) | i the rights of another under led | cial state, of Communication (See Section) | |

REGISTRAR - RECORDER/COUNTY CLERK BUSINESS FILING AND REGISTRATION
P.O. BOX 53592, LOS ANGELES, CA 90053-0592 PH: (562) 462-2177

FILING FEE: \$10.00 for 1 FBN and 2 registrants plus \$2.00 for each additional FBN/registrant.

6/2256

THIS FORM SHOULD BE TYPED OR PRINTED "LEGIBLY" IN BLACK INK. FORM # 76F286D-F029 (Rev. 1/02)



Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 22

DAILY JOURNAL CORPORATION CALIFORNIA NEWSPAPER SERVICE BUREAU

915 E. First St., Los Angeles, CA 90012 Telephone: (213) 229-5300 / Fax: (213) 680-3682

12/01/2003

ATTN: LIUSKA RINCON COLE, R. ROSSER 200 N MARYLAND AVE #302 GLENDALE CA 91206

Dear Customer:

The order listed below has been received and processed. If you have any questions regarding this order, please call your ad coordinator or the phone number listed above.

Customer Account#:

106731

Type of notice:

FNS - FICTITIOUS BUSINESS NAME

Ad Description:

SKIN DEEP LASER MED SPAS, INC.

Our order number:

612256

Newspaper:

DAILY COMMERCE

Publication date(s):

12/03/03, 12/10/03, 12/17/03, 12/24/03

The following additional services will be performed:

- Filing Fee

Thank you for using the Daily Journal Corporation.

JACKIE HARTOONIANI

FILED

in the office of the Secretary of State of the State of California

DEC 26 2003

ARTICLES OF INCORPORATION

OF

KEVIN SHELLEY, Secretary of State

BERGER MEDICAL CORPORATION

ARTICLE I. The name of this corporation is BERGER MEDICAL CORPORATION.

ARTICLE II. The purpose of the corporation is to engage in the profession of medicine and any other lawful activities (other than the banking or trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations. The corporation is a professional corporation within the meaning of Part 4 of Division 3 of Title 1 of the Corporations Code of the State of California.

ARTICLE III. The name and address in the State of California of the corporation's initial agent for service of process is Colin Hurren, located at 1981 New York Dr., Altadena, CA 91001.

ARTICLE IV. The total number of shares which this corporation is authorized to issue is Ten thousand (10,000), all of the same class, designated "Common Stock."

ARTICLE V. In any action for breach of directors' duties pursuant to Corporations Code Section 309, the liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

Dated this 24th day of December, 2003.

R. Rosser Cole, Esq.

The undersigned declares that he is the person who has executed these Articles of Incorporation and hereby declares that this instrument is the act and deed of the undersigned.

Cancellation No. 92044697

March 10, 2009 Page 24

R. Røsser Cole, Esq.



IVES & ASSOCIATES

52544

Statement

Customer ID: Skin Deep

Bill To:

Colin & Jan Hurren

Skin Deep

1981 New York Drive Altadena, CA 91001

| Date | Hours | Description | Amount | Payment | Total |
|----------|-------|------------------------------------|---------|----------|------------|
| 12/27/03 | 2 | Sight electrical/review finishes | \$85.00 | | \$170.00 |
| 12/29/03 | 4 | Draft and design case furniture | \$85.00 | | \$340.00 |
| 12/29/03 | 1 | Design development & review | \$85.00 | | \$85.00 |
| 01/04/04 | 1 | Design review | \$85.00 | | \$85.00 |
| 01/06/04 | 4 | Meet with cabinet makers/spec | \$85.00 | | \$340.00 |
| 1/10/04 | 1 | Meet with Cabinet maker | \$85.00 | | \$85.00 |
| 1/23/04 | 2 | Consult on cabinet detail & finish | \$85.00 | <u> </u> | \$170.00 |
| | | | | | |
| | | | | | |
| | | | <u></u> | Total | \$1,275.00 |

REMITTANCE

Customer ID: Skin Deep Statement #: 0104 Date: January 28, 2004 Amount Due: \$1,275.00

Amount Enclosed:

Terms: 15 days

Please make check payable to Ives & Associates and send payment to the address bolow.

▲ I & A

check # 1101

2029 New York Drive Altadena, CA 91001

Phone: 626-233-0220 Fac: 626-795-6504 Email: Michives@earthlink.net

92044697-Pet Doc Prod 01-24-06

Cancellation No. 92044697
Exhibits - Motion for Summary Judgment
March 15, 2009
Page 26





Therapy and Facial Treatments are offered in a lizurious and elegant softling. We offer mostical skin treatments that BOTOX® Cosmetic, JUVEDERM® Injectable Cel, Perlane®, Restylana®, Microdemahrasion, Photodynamic Acne are aftered through a series of visits designed to work over time to prevent, heal or correct and demarte, ago apots, Our skin najuvetrading programs including Sizin Tightening, Laser Hair Removal, Photo Facial, Skin Rosurfücling. fine fines, wrinkles, rosacea, large pores, unever skin texture, acae and unwanted heir .

Skin Deep HEARTMATH® WORKSHOP



change you - from the inside out

A daylong experience that will how beauty begins within. i earn the science behind

SURGERY, SPECIAL DEFENS Manage Your Subscription v SKINGARE, COSMETIC GET THE LATEST ON Your email here Your Zip code Current Issue n & EVENTS

Home | About Us. | Treatments | Products | Price List. | News. | Testimorials | Location. | Centect Us. | Related Links. | Privacy Policy | Silve Map.

All rights reserved. Skin Deep Lacac Madapa, capyright o Jook 2009, Located in Pasadena, California.

Wedgingster

2/14/2009



TELECOMMUNICATIONS

License # 517078

3209 S. Brea Canyon Road, Suite C • Diamond Bar, CA 91765 • (909) 860-6761

INVOICE

SOLD TO:

SHIPPED TO:

SKIN DEEP LASER SPA 405 P FAIROAKS FASACENA, CA 91105

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| | | TOTAL DUE. \$1,843.79 | | | |
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| <i>.</i> . | | UKBAN JELEVORMURIOATE | Chr# 1 | 375 | |

Cance lation No. 92044697 Exhibits - Motion for Summary Judgment

> Page 27 92044697-Pet Doc Prod 01-24-06 Page 10 of 120

DIMENSIONAL GRAPHICS 3460 Oceanview Blvd.#G Glendale, Ca. 91208

Quotation

| DATE | INVOICE NO. |
|-----------|-------------|
| 01/06/'04 | |

| BILL TO | |
|------------------------|---------------------------------------|
| Skin Deep Med Spa | · · · · · · · · · · · · · · · · · · · |
| 425 S. Fair Oaks Blvd. | |
| Pasadena, CA 91105 | |
| Attn: Janet Hurren | |
| Attn: Janet Hurren | |

| SHIP TO | | | |
|---------|------|---|--|
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| P.O. NO. | TERMS | ATTENTION | |
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| QTY | ITEM | DESCRIPTION | AMOUNT |
|-----|---|--|--|
| | Descript Item Item Item Item Item Item Labor | Aluminum laminate letters & graphics per art submitted. Colors TBA. "425" 8" High 1" Deep "SKIN DEEP" 12 3/4" High 2" Deep "LASER" 31" To 7" High 1" Deep Scroll 10" High 1" Deep "MED SPA" 5" High 1" Deep (2) Sets blue vinyl letters & graphics per logotype Installation all items SALES TAX | 1,690.00T 235.00T 320.00 158.81 |
| | | Chk+ 1077 \$1,200 | |

Total

\$2,403.81



SECRETARY OF STATE

I, Kevin Shelley, Secretary of State of the State of California, hereby certify:

That the attached transcript of _____ page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

JAN - 7 2004

Secretary of State

Sec/State Form DE-107 (rev. 1/03)

--- OSP 03 80510



EXIT WEBSITE

Luciny Beauphir Real Window Living Propile Estates Shopping

Health Food & Beauty & Drink

The Archives

Hurren's eciectic background has created a unique setting for the cultivation of health and beauty.

At its core Skin Been is a medical facility where doctors and licensed professionals perform precise procedures and dispense, with the FDA's backing, drugs and medical-grade compounds. But prace compounds. But hearkening back to his film industry years, Hurren has created an inviting "set," a decidedly non-medical environment (spa-like, comfortable) and stripped away the cold, almost dispassionate medicine in today's America.

To Hurren, Skin Deep Laser Medspa is all about a culture of warmth, friendliness and customer service backed by thoroughly top-drawer services. It's all about his clients thrilling to a great experience and walking out looking younger and healthier

We are a journey to perfect skin. These services are not covered by insurance. They're all elective and out of pocket and under those circumstances people want to be feel as special as they as are," he says. "We want to develop long-term relationships.

Hurren's relationship with Pasadena is long-term, too. He arrived here rather precipitously armed nere rather precipitods eighteen years ago, "madly in love," after having met "this beautifut young lady from Kansas City" on a Caribbean

"I was happily living in England, working in the film industry. enjoying a good career, a good life. A young man traveling the world, financing movies and distribution. It was magical!" he remembers. "Then ... I took a week's holiday in the Turks and Caicos. On the second to the Caicos. On the second to the last day I met this beautiful young lady from Kansas City, but tiving in Eagle Rock. I fell madly in tove. I resigned, sold my apartment, sold my car and moved to Eagle Rock without a work permit or anything. We

were married the following year and together we had three beautiful kids."

'i just love Pasadena! Pasadena's such a wonderful place, isn't it? When I have to go to the west side for some reason to the west side to some reason it can't wait to get back. It's so rich in everything! The amount of giving and charity work is enormous," he says.

His involvement with Hillsides led to a position on the Board. He is also on the Board of the Playhouse ("I've always been interested in the theatre. I was once involved in financing a musical that got onto the London West End") and he is co-chair of the Playhouse's annual gala.

Passionate, entrepreneurial, precise, philosophical. Colin Hurren is skin deep in fictitious name only.

Skin Deep Laser Med Spa is located at 425 South Fair Oaks Avenue in Pasaciana For information, call (525) 449.8873 or visit



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ACMI EMITED DDICES INC, 425 S FAIR OAKS AVE, PASADENA, CA, 91105 Business Profile // 6267915880 // Health and Allied S... Page 1 of 2

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ACN ENTERPRISES INC is in the Health and Allied Services, N.E.C. industry in PASADENA, CA. This company currently has approximately 1 to 5 employees and annual sales of Under \$500,000.

Characteristics property and the open

425 S FAIR OAKS AVE PASADENA, CA 91105

Phone: (626) 791-5880

Page Page

Location Type: Single Location

industry: Health and Allied Services, N.E.C.

Year Founded: 2004

Sales Range: Under \$500,000

Employees: 1 to 5

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Gain new insights into this company's payment behavior

Collect faster with prioritized segments

Score your entire portfolio for only \$0.50 per company

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Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 15, 2009 Page 31

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COLIN HURREN

PRESIDENT

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Cancellation No. 92044697

Exhibits - Motion for Summary Judgment
March 15, 2009
Page 32

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- 3 Get sales insights on ACN ENTERPRISES INC such as
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including enhanced demographics, executives, business access our premium insights for ACN ENTERPRISES INC provides the basics. Then, if you need to dig deeper, Start with this free report on ACN ENTERPRISES INC that hierarchies, payment behavior & scores, public records and

Navigate ACN ENTERPRISES INC and its business Ensure ACN ENTERPRISES INC is a good credit risk with competitors, executives, financial information, and shipping relationships with our corporate tree information

The information contained in this company profile is compiled from third party sources, including but not limited to public records, user submissions, and other commercially available data sources. These sources may not be accurate, compilete, or up-to-data. Conters makes no representations or warranties regarding, and assumes no responsibility for, the accuracy, compileteness, or currency of the information contained herein. These sources indicate that business activity is being conducted from the location shown in this business profile. If this is not the case and you wish to request that this profile be removed, click here.

The commence of the second states of the desired second se

My Team: Jan Hurren

Jan Hurren
Dilbeck Realtors
GMAC Real Estate
132 E. Colorado Blvd.
Pasadena, CA 91105 USA

Contact Jan Hurren:
Office Phone: (626) 584-0101
Business Phone: (626) 431-2215
Business Fax: (626) 791-5880
Cell Phone: (626) 483-1905
My Email: Jandaron algodiba of the office Email: data blank (codibards contact)

Jan Hurren Target Markets: Residential

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Equal Opportunity Housing Provider



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The security of this deed of trust shall not be attacted by the extension, renewal or modification from time to time of the obligations, instruments or agreements described above.

- b. Payment of any and all obligations and liabilities, whatsoever, whether primary, secondary, direct, indirect, fixed or contingent, whether now or herselter due from Trustor, Obligor or any of them (or any successor in interest to Trustor or any or them) whether created directly or acquired by essignment if the document evidencing such obligation or liability or any other writing signed by Trustor, Obligor or any of them (or any successor in interest to Trustor or any of them) specifically provides that said obligation or liability is secured by this deed of trust.
- C. Performance of each agreement of Trustor and Obligor herein contained or contained in any other agreement, instrument or other writing to which Trustor or Obligor is a party if the same is written in connection with any of the foregoing.
- Payment of all sums to be expended by the Beneficiary or Trustee pursuent to the terms hereof.

2. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

a. To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanilite manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the Property or requiring any alteration or improvements to be made thereon; not to commit or permit weste thereof; not to commit, suffer or permit any act upon said property in violation of lew; to cultivate, irrigate, fertilize, furnigate, prune and do all other acts which from the character of use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.

b. To provide, maintain and deliver to Beneficiary evidence of fire and other insurance on the Property satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be leased to Trustor. Such application or release shall not ours or waive any default hersunder or invalidate any act done pursuant to such notice Trustor shall deliver such policies or acceptable written evidence of such policies to Beneficiary upon demand. Failure to maintain the insurance required under this Deed of Trust or to deliver such policies or acceptable written evidence of the policies to Beneficiary will give Beneficiary the option to purchase insurance on behalf of Trustor. Any insurance Banaficiary procures may insure only Banaficiary's interest in the Property and may not provide any coverage for Trustor. Any costs or expenses incurred by Beneficiary in procuring such insurance will be added to the principal balance and will bear interest from the date they are advanced at the highest rate shown in the instrument, or instruments, evidencing the indebtedness secured by this Deed of Trust. Such amounts shall be payable upon demand or, at Beneficiary's option, in the form of larger installments otherwise physible under such instrument or instruments.

c. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary or Trustee to foreclose this deed of trust.

d. To pay at least ten days before delinquency all texas and assessments affecting the Property, including assessment of appurishant water stock, all encumbrances, charges and liens, any interest, on the property or any part thereof, which appear to be prior or superior hereto and all costs, tees and expenses of this deed of trust.

That should Trustor fall to make any payment or do any act as herein provided, tren Beneficiary or Trustee, but without obligation, so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may:

(1) Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes.

Appear in and defend any action or proceeding purporting to affect the security hereof or the rights or power of Beneficiary or Trustee.

Pay, purchase, contact or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or to be superior hereto.

(4) In exercising any such powers, pay necessary expenses, employ counsel and pay his resocnable fees.

f. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the maximum rate allowed by tew in effect at the date hereof or at the option of Beneficiary, such sums may be added to the principal balance of any indebtedness secured hereby and shall bear the highest rate of interest as any such indebtedness.

9. To pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the plany not to exceed the maximum allowed by tew at the time when said statement is demanded.

3. IT IS PURTHER AGREED THAT:

a. Any award of demages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to the Beneficiary who may apply or release such monies received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

b. By accepting payment of any sum secured hereby after its due date, or after the fiting of notice of default and of election to sell, Beneficiary shall of walve its right to require prompt payment when due of all other sums so secured, or to declare default for taking so to pay, or to proceed with the sale under any such notice of default and of election to sall, for any unpaid balance of said indebtedness. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporarisously with, or after the sale is made hereunder, and on any default of Trustor or Obligor. Beneficiary may, at its option, offset against any indebtedness owing by it to Trustor or Obligor.

o. Without affecting the liability of any person, including Trustor or Obligor, for the payment of any indebtedness secured hereby, or the ken of this deed of trust on the remainder of the Property for the full amount of any indebtedness unperd, Beneficiary and Trustee are respectively powered as follows:

(1) Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the indebtedness, (b) extend the time or otherwise after the terms of payment of any of the indebtedness, (c) accept additional security therefor of any kind, including deeds of trust or mortgages, (d) alter, substitute or release any of the Property securing the indebtedness.

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(2) Trustee may, at any time, and from time to time, upon the written request of Beneficiary (a) consent to the making of any map or plat of the Property, (b) join in granting any easement or creating any restriction thereon, (c) join in any subordination or other agreement affecting this deed of trust or the lien or change thereof or, (d) reconvey without any warranty, all or any part of the Property.

d. That upon written request of beneficiary stating that all sums secured hereby have been paid, cancellation of any note, guarantee, Agreement or other writing evidencing the indebtedness secured hereby and performance of all obligations of the Trustor and Obligor hereunder and thereunder, and upon surrender of this deed of trust and said note, guarantee, Agreement or other evidence of indebtedness secured hereby to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property than held hereunder The recital in such reconveyance of any matters of facts shall be conclusive proof of the truthluness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto". Five years after issuance of such reconveyance, Trustee may destroy said note, guarantee, Agreement or other evidence of indebtedness and this deed of trust (unless: directed in such request to retern them)

9. Trustor hereby gives to and confers upon Beneficiary the right power and authority during the continuence of these trust to collect the rents, issues and profits of the Property and of any personal property located thereon, and hereby absolutely and unconditionally assigns all such rents, rissues and profits to Beneficiary, provided, however, that Beneficiary hereby consents to the collection and retention of such rents, issues and profits as they accrue and become payable only if Trustor or Obligor is not, at such times, in default with respect to payment of any indebtedness secured hereby or in the performance of any agreement increunder. Under any such default, Beneficiary may at any time, wehout notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, and in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorneys less, upon any indebtedness secured hereby, and in such order as Beneficiary may determine; also perform such acts of repair, cultivation, ation or protection, as may be necessary or proper to conserve the value of the Property; also lesse the same or any part thereof for such rented, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the premises, and apply the net proceeds thereof upon the indebtedness secured hereby. The entening upon and taking possession of the Property, the collection of such rents, leaves and profits, and the application thereof as aforesaid, shall not wave or cure any default or notice of lault hereunder or invalidate any act done pursuant to such notice. Trustor also assigns to Trustee, as further security for the performance of the obligations secured hereby, all prepart rents and all mones which may have been or may hereafter be deposted with said Trustor by any lessee of the premises herein described, to secure the payment of any rent, and upon default in the performance of any of the provisions hereot. Trustor agrees to deliver such rents and deposits to the Trustee.

f. Upon default by Trustor or Obligor in the performance of any payment or other obligation secured hereby or in the performance of any agreement hereunder or if the Trustor shall sell, convey or alienste said property or any part thereof, or any interest therein, or shall be divested of his title, or any interest therein, in any manner or way, whether voluntary or involuntary, any indebtedness or obligation secured hereby, irrespective of the maturity dates expressed in any note evidencing the same, at the option of the holder hersof, and without demand or notice, shall immediately become due and payable. If there is procured from Beneficiary an agreement or waiver resulting in the non-exercise by Baneficiary of such option in any certain instance or on any particular occasion, then in that event any privilege or option now in effect to pay said indebtedness or any part

thereof prior to the date the same would be delinquent if not paid, is thereupon and thereby waived and terminated.

9. No failure or delay by Barreliciary in exercising any right, power or privilege under law, the deed of trust or any other document relating to the stadness shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of such right, power or privilege or any other nght, power or privilege. All nghts and remedies of Beneficiery under the deed of leral security documents securing the indebtedness or any guaranty of the indebtedness, and any notes or other evidence of the trust, the colle indebtedness issued pursuant to any of the foregoing shall be cumulative and may be exercised singly or concurrently, and are not exclusive of any other right or remedy permitted by isw or in equity Beneficiary may rescrid any notice before Trustee's sale by executing a notice of sion and recording the same. The recordation of such notice shall also constitute a cancellation of any prior declaration of default and demand for sale, and of any acceleration of meturity of indebtedness affected by any prior declaration or notice of default. The exercise by Beneficiary of the right of rescission shall not constitute a waiver of any default then existing or subsequently occurring, nor imper the right of the Baneficiary to assecute other declarations of default and demend for sale, or notices of default and of election to cause the Property to be sold, nor other wise affect the note or deed of trust, or any of the rights, obligations or remedies of the Beneficiary or Trustee hereunder

It. At least three months or any lesser period required by law having elepsed between the recordation of the notice of default and the date of sale. se, having first given notice of sale as then required by law, and without damend on Trustor, shall sell the Property at the time and place of sale fixed by it in the notice of sale, either as a whole or in separate percels, and in such order as the Trustee may determine, at public auction to the highest bidder for cash, in lawful money of the United States of America, payable at the time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time fixed by the previous postponement, and without further notice it may make such sale at the time to which the same shall be so postponed. Trustee shall deliver to the purchaser its deed conveying the Property so sold, but without any covenant or warranty, expressed or implied. The recital in any such deed of any matters or facts, stated either specifically or in general forms, or as conclusions of law or fact, shall be conclusive proof of the truthluness thereof. Any person, including. Truster or Beneficiary, may purchase at the sale. After deducting, all costs, less and expanses of Trustee and of this trust, including, costs of evidence of title in connection, with ile, the Trustee shall apply the proceeds of the sale to the payment of all sums then secured hereby, in such order and manner as may be required by the Beneficiary; the remainder, if any, to be paid to the person or persons legally entitled thereto. If Beneficiary shell elect to bring suit to forectore this deed of trust in the manner and subject to the provisions, right and remedies relating to the forectosure of a mortgage, Beneficiary shall be entitled to a reasonable sum to be fixed by the court as attorney's less expended in the prosecution of eard action.

anaflolary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the country or countes where said property is situated, shall be conclusive proof of proper substitution of such successor Trustees or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its tide, estate, rights, powers and dulies. Said instrument must contain the name of the onginal Trustor, Trustee and Beneficiary hereunder, the location where this deed of trust

is recorded and the name and address of the new Trustee.

CAJ22 (6/2003)



1. This deed of trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legaless, devices, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgess, of the note, guarantee, Agreement, or other evidence of indebtedness secured hereby, whether or not nemed as Sensiciary herein. In this deed of trust, whenever the content so requires. the mesculine gender includes the termine and/or the neuter, and the singular number includes the plural.

k. Trustee accepts this Trust when this deed of trust, duly executed and acknowledged, is made public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or

Trustee shall be a party unless brought by Trustee.

1. Any Trustor or Obligor who is a married person expressly agrees that his or her community property and separate property shall be hable for any eficiency after the sale of the said property to the extent such Trustor or Obligor is personally obligated to pay the indebtedness secured hereby

m. If Trustor or any successor in interest to Trustor sells, transfers or enoumbers any interest in the Property, whether voluntarity or involuntarity, or if a beneficial interest in Trustor is sold or transferred, voluntarily or involuntarily and Trustor is not a natural person: (a) the transferrer and the transferse shall each immediately give written notice of said transfer to the Beneficiary, at its address designated on the first page of the deed of trust; (b) if the deed of trust secures Trustor's or Obligor's obligation under an Agreement as defined herein, all credit extended by Beneficiary under the Agreement, whether before or after the property is transferred, shall be secured under this deed of trust as if no transfer had occurred icept for credit extended by Beneficiary more then five days after it has received the written notices required by this paragraph

n. The pleading of any statute of limitations as a detense to any and all obligations secured by this deed of trust is hereby waived to the full extent

9. Trustof authorizes Beneficiery, without nobce or demand and without affecting his liability under this deed of trust, from time to time, to

- (1) Renew, extend, accelerate, decrease or increase the amount of the indubtedness, or otherwise change the time for payment of any of the indebtedness or any other term thereof;
- (2) Renew, extend, accelerate, terminate or otherwise modify any of the collateral security documents securing any of the indebtedness, and any notes and/or any other evidence of indebtechess in connection with any of the foregoing, including, without limitation, increase or decrease of the rate of interest thereon:

(3) Accept partial payments on the indebtedness:

(4) Substitute, withdraw, waive, decrease, increase, release, exchange or otherwise after any collateral security, in whole or in part, securing the Indebtedness or any guarantee of the indebtedness;

(5) Apply any and all such colleteral security and direct the order or manner of sale thereof as Beneficiary in its sole discretion may determine.

one or substitute any one or more of the guarantors of the indebtedness, and otherwise deal with Obligor, Trustor, or any other guarantor

- (7) Settle or release, either by agreement on terms satisfactory to Beneficiary or by operation of law or otherwise, compound, compromise, collect or otherwise liquidate any indebtedness and/or collectural security therefor in any manner; and/or consent to the transfer to any serial security and bid and purchase at any sale; all without in any way diminishing, releasing or discharging the habitly of the
- elves: notice of ecceptance of the deed of trust, any document evidencing or relating to the indebtedness; diagence and all demands, entments, protests, notices of protest; notices of nonperformence; notices of dishonor; and notices of the existence, creation or incurring of
- any new or additional indebtednes 9 Upon default of Obligor or Trustor in respect of any indebtedness. Beneficiary may, at its option, and without notice to the undersigned, proceed directly against the property of the undersigned under the deed of trust to collect and recover full amount of the indebtedness, or any portion thereof, and Trustor welves any right to require Beneficiary to: (a) proceed against Obligor, Trustor or any guaranter; (b) proceed against or should any collegeral security given to or held by Beneficiary in connection with the indebtedness; or (c) pursue any other remedy in Beneficiary's power whatsoever Trustor further authorizes Beneficiary, without notice or demand and without affecting the liability of the undereigned hereunder, to foreclose by judicial or non-judicial sale any collateral security given to secure the indebtedness.
- Trustor waives any defense arising by reason of any disability or other defense of Obligor. Trustor or any guarantor or by reason of the cessation from any action of any kind against Obligor. Beneficiary's rights under the deed of trust shall be enforceable without regard to the validity. regularity or enforceability of the indebtedness or any document evidencing the same, any notes or other evidence of the indebtedness, any other guarantee of the indebtedness of any collateral security documents securing any of the indebtedness. Trustor specifically agrees that the failure of Beneficiary to perfect any tien on or security interest in any property given by Obligor. Trustor or any guaranter to secure payment of the indebtedness, or the failure to record or file any document relating thereto, shall not terminate, diminish or otherwise affect Beneficiary's rights
- Trustor shall not have any right of subrogation to any of the rights of Beneficiary against Obligor, Trustor or any guarantor, and any action by Sensitively which may affect any right of subrogation that the undersigned may have had shall not affect or be raised by the undersigned as a use to any rights or obligation that the undersigned owes to Beneficiary. Trustor waives any rights or obligation that the undersigned owes to Beneficiary. now has or may herselfer have against Obligor. Trustor or any guarantor, and waives any benefit of, and any other right to participate in, any teral security for the indebtedness now or hereafter held by Beneficiary.

1. Trustor assumes the responsibility for keeping himself informed of the financial conditions of Obligor. Trustor or any guarantor and of all other circumstances bearing upon the risk of non-payment of the indebtedness. Beneficiary shall have no duty to advise the undersigned of information known to Beneficiary regarding such condition or any such circumstance. Beneficiary has no duty to inquire into the powers of Obligor, Trustor, or any guarantor or the officers, directors or agents thereof acting or purporting to act in its behalf and/or their behalf

u. None of the terms or provisions hereof may be welved, altered, modified, or amended except by an instrument in writing, duly executed by the party to be charged thereby, and the rights, obligations and liabilities hereunder shall be governed by, and shall be construed and interpreted in

condence with, the laws of the state of California.

Y. To the eldent not prohibited by law, the Trustor (or any of them) hereby grants to the Beneficiary a security interest under the California Uniform Commercial Code in all deposit accounts and other property of the Trustor (or any of them) held by the Beneficiary, to secure all obligations of the Trustor or Obligor to the Seneticiary; provided, however, that this security interest shall not secure any indebtedness which is or hereafter becomes "consumer credit" subject to the disclosure requirements of the Truth in Lending Act and Regulation Z promulgated thereunder, both as amended from time to time.

CA322 (6/2003)



4. WITH REGARD TO HAZARDOUS SUBSTANCES, TRUSTOR AGREES:

- a. As used in this section, the term "hazardous substance" means any substance which has characteristics of ignitability, corrostvity, toxicity. reactivity or radioactivity or has other characteristics which render the substance dangerous to health, safety or the environment if such substance is or becomes regulated by any federal, state of local law, regulation or ordinance. The term includes, without limitation, substances defined as wist," "Toxic substances," "hazardous wasses" or "hazardous substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9801, et seq. ("CERCLA"), the Hazard Meterals Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., and in Chapters 6.5 through 7.7 of Division 20 of the California Health and Salety Code, Section 24100, et seq., and in the regulations adopted and publications promulgated pursuant to said laws.
- b. As used in this section, the terms "disposal", "release" and "threatened release" shall have the definitions assigned to them in CERCLA.
- G. Trustor represents and warrants that during the period of Trustor's ownership or leasehold interest in the property there has been no use. anemation, manufacture, storage, disposal, release or threatened release of any hazardous substance by any person on, under or about the Properly nor are there or have there been any claims of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing. Trustor further represents and warrants that Trustor has no knowledge of. or reason to believe that there has been, any use, generation, manufacture, storage, disposal, release or threstened release of any hazardous substance by any person on, under or about the Property before Trustor acquired an interest in the Property or any claims of any kind asserted or threatened to be asserted by any third party relating thereto except as previously disclosed to and acknowledged by Beneficiary in writing
- d. Trustor represents, warrants and agrees that neither he nor any agent, contractor, tenant or other authorized user of the Property shall use, generate, manufacture, store, dispose or relesse any hazardous substance on, under or about the Property except as first disclosed to and acknowledged by Beneficiary in writing and that any such activity shall be conducted in compliance with all applicable federal, state or local laws. regulations or ordinances, including, without limitation, the provisions of the federal, state and local laws, regulations, ordinances and publications described in the first paragraph of this section.
- e. Trustor agrees to indemnify and hold Beneficiary and its successors or assigns harmless from and against all losses claims, demands, liabéties, damages, response costs, penalties and expenses, including, without limitation, all costs of lingation and, attorneys' fees, which Seneticiary and its successors or assigns may directly or indirectly sustain or suffer as a consequence of any macchinicy or breach of any representation, warranty or agreement contained in this section, or as a consequence or any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Trustor's ownership or interest in the Property whether or not the same was or should have been known to Trustor.
- f. The provisions of this section shall not be affected by the acquisition by Sensticiary or its successors or assigns of any ownership or other interest in the Property beyond Beneficiary's security interest in the Property created under this deed of trust, whether or not such acquisition is pursuant to the foreclosure of this deed of trust or a merger of the interest of the Beneficiary or its successor and assigns in the Property.

5. ADDITIONAL PROVISIONS:

- a. The execution of this deed of trust by any person who has no present interest in the Property shall not be deemed to indicate that such an interest presently exists. Rather, execution of this deed of trust by such a person shall constitute such person's agreement that if such person hereafter acquires an interest in the Property, such interest shall be subject to Beneficiary's interest hereunder.
- b. The execution of this deed of trust by any person who has a present interest in the Property shall not in itself be deemed to indicate that such person is liable to Beneficiary for any obligation described in Section 1., above. Any personal liability of such person to Beneficiary shall be armined on an independent basis (auch as execution of the document or documents evidencing the obligation described in Section 1. above). Execution of this deed of trust by any such person shall nevertheless indicate that such person's interest in the Property shall be subject to Beneficiary's interest hereunder.
- 6. TRUSTOR, BENEFICIARY AND TRUSTEE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF R CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS DEED OF TRUST OR THE INDESTREMESS.

If a mailing address is set forth opposite any Trustor's signature hereto, and not otherwise, the undersigned Trustor shall be deemed to have requested that a copy of any notice of detault, or of any notice of sale hersunder, be mailed to said Trustor at said address.

By signing below, Trustor Agrees to all the terms and the conditions of this Deed of Trust. Mailing Address For Notices Signature of Trustor(s) (Street, City, State and Zip Code) 1981 New York Drive, Altadens, California 91001 CA322 (6/2003)

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CERTIFICATE OF ACIDIOWALFOGMEN

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SUMETYSHIP RIDER TO DEED OF TRUST EXHIBIT "A"

| RIDER TO THAT CERTAIN DEED OF TRUST DATED AS OF ISSUED 12. 200 | |
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| EXECUTED BY theren Feelly Trust | |
| AS TRUSTONS AND NAMING _CONCIGA_BIOKAS REMIFICIALLY ("Bosoficiary THE DEED OF TRUST ("Property"), WHICH DESCRIPTION IS INCOMPORT MICROPORTION IS INCOMPORT MICROPORTION INTO AND SHALL BE ORIENTED TO AMEND AND SUFFLEMENT | NATION HUMBIN BY THIS REPERSION. THIS RIDER IS |
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| Truster admountaiges that this David of Trust secures Indebtedness of | ACM Engarprises, Inc. |
| ["Become"] on earlier other than Truster. Truster womants that: (1) this Doc | of Trust is associated at Borrower's request; (2) this Dood |

("Berrower") an easily other than Truster. Truster werents that: (1) this Deed of Trust is executed at Borrower's request; (2) this Deed of Trust enoughes with any agreements between Truster and Borrower regarding Truster's execution become; (2) Truster has not and with cut, without prior unition consent of Borrower, ord, lease, eneign, encueber, hypothesess, transfer or otherwise dispose of the property or any interest therein; (4) Borrower, and no expresentation to Truster as to the credit worthiness of Borrower; and (5) Truster has established adequate means of absuling from Borrower, on a continuing beats, financial and other information participe to Truster but the another, "reserve agrees to keep adequately informed, from its independent sources, of any facts, events or characteristic adjute in any very affect Truster's risks hereunder, and Truster further agrees that Banadalary shall have no obligation to disclose, to Truster, information or meterial acquired in the course of Bonoliciary's relationship with Borrower.

WARNING THE RESERVE THE RESERV

Truster valves any right to require Beneficiary to: (1) pressed against any person, including Surrower or any guaranter; (2) preced against, or exhaust any eathers had from, Barrower or any other parson; (3) pursue any other remody in Beneficiary's power; or (4) rather any passentment, demand for puriorments, or give any nestee of nesperforments, protect, notice of protect or notice of dishoner in occasion with any chilgates or evidence of inclusiones held by Beneficiary as security, is connection with any chilgates or evidence of indishodness which consolutes in whole or in part the chilgation secured by this Doed of Trust, or in connection with the creation of new or additional chilgations.

Truster walves any defenses crising by reason of: (1) the incapacity, lask of authority, death or disability or other defense of Borrower or any other person, but not limited to, the incohercy or backurptay of Borrower, or any other person, or any stay in assenceion with any such bentingstry proceedings, or the failure of backurptay or file or enforce a chile against the extent de administration, backurptay, or any other proceeding) of Borrower or any other person; (2) the assentian from any cause whatsoever, other than payment in full, of the obligations of Borrower or any other person; (2) the assentian from any cause whatsoever, other than payment in full, of the obligations of Borrower or any other person; (2) the assentianty or intended of any obligation second iterately for purposes represented by Borrower to Borrollary intended or undestrated by Borrower, any other person, any obligation second benefits, or any collected by operation of law or equity or effectives or (5) any modification of any obligation assented benefit, in any form whosevers bedefing, without finitedmin, the removal, entended when the state of interest thereon, or other change in thee for payment of such obligations, increase or decrease of the sate of interest thereon, or other change in the term of each obligations or my part thurses.

Truster walves all rights which Truster may have, under any sequinament of law or equity, that Beneficiary enhance any other security for the chilgarians secured hereby before proceeding under this Deed of Trust.

Paster hearby wakes any defense arising by reason of any states or defense based upon an election of remades by Benefiting or other intended defenses, within, in any messer, impairs, affects, reduces, relaxes, destroys antider entengaints Trustor's authrogation rights, defense to present against Berevuer, against any other passes or seasontly including, but not limited to, any defense based upon an election of remedies by passestary under all the provisions of California Code of Chill Presentur. As an illustration, without halting the ferepoing, Trustor passes and estimatation of Agiliania Code of Chill Presentur. As an illustration, without halting the ferepoing, Trustor realizable and refinemation of Agiliania, remedies, and defenses that Trustor may travel or any later within may limit the secont of a realizable plagment based on any obligation secured hearing; (2) under any her to definiturely judgment; (3) any requirement of low that destinant particular property of the contract of the

CA 106.1 (5/2002)

1/26/04



SURETYSHIP RIDER TO DEED OF TRUST EXHIBIT "A"

benefishery, in its sole discretion and without notice or demand and without affecting the security of this Doed of Trust, may exercise all to rights and controlled against Exercise to real property, in its sole discretion and without notice or demand and without affecting the security of this Doed of Trust, may exercise all to rights and controlled against Exercise or any guaranter. Serverer's or any guaranter and and parsonal property, and any other security for the obligations secured barely or for any guarantey therefor in whether ender or meaner Exercisery may determine, installing without Einstein, nonjectical foreclosure of any real property security. Without Einstein the generality of the foregoing or any other provision hereof. Truster benefit setting the generality of the foregoing or any other provision hereof. Truster benefit setting the generality of the foregoing or any college of the property setting the general setting the generality of the foregoing or any extension of the setting the general property without regard to the fat muries twine of the property, the method of feresteeme or the fact that the Obligation arises from a purchase money transaction to the fat muries value of the property, the method of feresteeme or the fact that the Obligation arises from a purchase money transaction.

Tranter welves and retence any and all rights of subregation, reluduresment, indemnity or contribution which it may now or hereafter have against: (1) Borrower, any guaranter or any parson who now or hereafter has direct or contingent liability (whether by contract, at law or in equity) for all or any portion of the obligations secured hereby; or (2) against any property which now or hereafter serves as selected security for the obligations becomed hereby. If and to the extent such weiver and release is unenterceable. Trustor hereby agrees that all such rights of subregation, reimbursement, indemnity and contribution shall be junior and subregation to the right of Buneficlery in and to any property which now or hereafter serves as collected security for much obligations.

WAIVER OF AUTHENTICATION OF VALIDITY OF ACTS OF COMPORATION, PARTNERSHIP OR TRUST

It is not necessary for Beneficiary to inquire into the power of Trustor or the efficient, directors, partners or agents acting or purporting to not on behalf of Trustor, and ell obligations made, exested or accepted in reliance upon the professed exercise of such power shall be assured hordey.

REVIVAL OF DEED OF TRUST

If any payments of money or transfers of property made to Beneficiary, by Berrower, any guerantor, any maker or any andorser, should, for any essen, subsequently be declared to be, or in Beneficiary's coursel's good falts opinion be determined to be, fraudalent twisting the meaning of any state or federal law relating to fraudalent conveyances), preferential or otherwise volidable or recoverable in whole or in part for any reason (barelineter collectively called "Volidable Transfer") or any amount repaid or recovered to Borrower or any guaranter together with all costs and expenses (including attorney's fees) of Beneficiary related thereto, the Sen and priority of this Deed of Transfer such collectively be revived, reinstated and restored and shall exist so though such volidable transfer had never been made in Beneficiary in the event Beneficiary shall have exceed to interest herein to be reconveyed and subsequently be required or advised by counted to restore or eaply any such volidable transfer, the amount thereof, or any portion thereof, the undereigned shall remain liable, as according haveled. To the same extent so it this Deed of Trust had not been reconveyed to the undereigned.

UNDERSTANDING WITH RESPECT TO WAIVERS

Truster waveasts and agrees that each of the waivers set forth above are made with Truster's full knowledge of their significance and sensequences, with the understanding that events giving rise to any defence waived may diminish, destroy or otherwise advancely affect which Truster esterwise may have against Borrower, Beneficiary or others, or against collecters), and that, under the electroses, the waivers are reasonable and not contrary to public policy or law. If any of the waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective to the maximum extent permitted by law.

Sech Truster acknowledges that it has reed all of the provisions of this Suretyship Miler to Dead of Trust and each Truster agrees to its

| Colin Bowlei Burton Trustee | DATED JOBUSTY 12, 2004 Ton Jen John Lot Morron, Trusted |
|-----------------------------|--|
| Col in Barto Nurtan Trustee | lamps-Les Murren, Truster |
| CA 166.1 (5/2002) | 2 |

1/24/04

TRUST CERTIFICATION

Comprise Bank Charle ander Their?

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| BORNOWER: A | St Securption, Inc. |
|--------------------|--|
| | St time york Srive |
| Al Home o | tadena, CA 91001 I Trust (e.g., John and Mary Booth Family Trust Designation of Trust dated 1/1/80): <u>Narrow Family Trust</u> |
| | |
| (granden) aposyste | |
| · · | Sulfactor, The name(s) of the sulfactor) of the Trust labors: |
| 10 | |
| 2 | Trustee(s). The remajo) of the currently scring trustee(s) takes: Cot in Bould Harren and Jacob Lee Harren. |
| | Number of Trustees. |
| | A. [] I am the current and cole Trustop of the Trust, and the Trust is in full force and has not been revoked, modified or attended in any measur which would cause the representations haveln to be incorrect. |
| | II. We are the current and all of the Co-Trustees of the Trust, and the Trust is in full tyres and has not been revealed, modified or amended in any manner which would come the representations hands to be incorrect. |
| The T | treet Agreement provides that of _2Co-Treatess taken the minimum manuar of trustess required provides the statement of trustess to land the Trust. |
| 4 | Revealibly. |
| | A. [] Revealable. The Trust is a revealable trust. The power to revoke is hold by the Truster(s) nomed below. No truster has clost. |
| | Trader 1end 2 |
| | G. I browsealds. The Trust is an irrevessible trust. |
| 5. | Authorization. As Trustee, I've have the authority and power to: |
| | A. Sorrow from Stark on such turns as stay he agreed upon with Bank, such sum or sums of money as in enjoyer judgment chould be bereauered and for each jurpose as free determine to be in the best interest of the Trust (volunted to below as the "Lean"). |
| | Streets and deliver a premiserry note or notes on behalf of the Trust which oxidences a Lean or Leans, on Bent's forms, at a rate of bisecut and on terms agreed upon with the Bents. |
| | C. Streets and deliver to Bank all renewals, entendent, modifications, or substitutions for any and all of the notes or any portion of the notes outdenting a Lean or Leans. |
| | D. Electrops, pickps, hypothesis, or otherwise ensumber and deliver to Bunk any rest or personal property which is counted by the Trust or in which the Trust holds an example interest, an eccurity for the repsyment of any Lean or Leans and the performance of any obligation by the Trust purboset to any descurants enterings a Lean or Leans. Essente and deliver to Benk the forms of energiage, deed of trust, plodge agreement, hypothesisticn agreement, and other security agreements and thesicing eleternatic in connection with each mortgage, plodge, hypothesistics or other ensurthreness. |
| | E. Thesele and deliver a guestrily on Beat's form therefor, whereby the Trust guerantees any and all obligations of |
| | F. Mortgage, pledge, hypothesels, or otherwise ensumber and deliver to Bank any real or personal property which is among by the best or in which the Trust ledds an ownership interest, as essently for the purfermence by the Trust of its chilipshone under a generally executed by the Trust in favor of Bank, whereby the Trust guarantee any and oil obligation of |
| | to Bank. Execute and deliver to Bank the Series of markage, deed of trust, photos agreement, hypothesisten agreement, and other security agreements and September distances in connection with most mortgage, plotige, hypothesisten or other encumbrance. |
| | G. Illustrage, pledge, hypothecole, or otherwise decumber and deliver to Bank any real or personal property which is consed by the Trust or in which the Trust hadde an ourseastle interest, as security for the performance of any and all obligations of ACE_Engage_intsiots_ performance and deliver to Bank the forms of mertgage, deed of trust, pledge agreement, hypothecolous agreement, and other security agreements and financing statements in comments with each mertgage, pledge, hypothecolous or other ensurances. |
| | II. [Threads and deliver to Bank the forms of excelpage, deed of trust, pladge agreement, hypothesellor agreement, and other security agreements and thereing utstaneaut which may be submitted by Bank, an which shall evidence the terms and conditions under mall purposed to which such Bank and excenditioned as a strength of the streng |

CATWUST (19-04)

| officer evidences of indebtedness for the same or to cause such pr to make such officer dispositions | with Sunk any drafts, trude gosphences, promissory nates, or payable to or belonging to the Trust, and either to receive each resease to be credited to any of the Trust's exclusive with Sank or of the proceeds on live may down advisable. |
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| for the other(e). References to the aingular include the plant. | igned by Co-Tructocs, each Tructoc cortilies for himself or herself and not |
| 7. The industrial following. The list industrial is declared under passing of purposy under the issue of the State or treatment or trea | By: Date |
| STATE OF CALIFORNIA | onema A. 6. Hargeave, Notary Public |
| knows to me (or graved to me on the heals of satisfy to the within hearwesel and admonistigated to me especiations, and that by Marker(heir elegatessis) of publicated acted, especiated the instrument. WITHERS any hand and official sent. | personal personal personal whose name(s) labors pubecritic that takeholder, executed the came in biolyprinish; extracts in the leasurest five person(s), or the entity upon behalf of which is |
| A. Q. HARONAVES GOOM, 6-14000 LOS ANDLES COLFORNA LOS ANDLES COLFORNA LOS ANDLES COLFORNA Ty Caree, Septem Sept. St. 500 | (Notary Public's Signature) () A. G. Hargers and (Type or Print Hanne) |

CA TRUST (12-84

2.

FACILITIES AND MANAGEMENT SERVICES AGREEMENT

THIS FACILITIES AND MANAGEMENT SERVICES AGREEMENT is entered into and made effective as of February 1, 2004, by and between Berger Medical Corporation DBA Skin Deep Laser Med Spa, A Medical Corporation hereinafter referred to as ("Doctor") and Skin Deep Laser Med Spa, Inc, a California Corporation ("Company").

WITNESSETH:

WHEREAS, Doctor is a duly licensed physician is engaged in the practice of medicine; and

WHEREAS, Company is a duly filed and validly existing California corporation which desires to provide facilities and management services including, without limitation, capital, facilities, equipment, personnel and management expertise ("Management Services") for Doctor's practice of medicine utilizing Company's existing facilities located at 425 S. Fair Oaks, Pasadena, California ("Premises"), and such other locations as may be agreed upon by the parties; and

WHEREAS, Doctor desires to obtain such Management Services as are reasonably necessary and appropriate for the management of the non-medical aspects of Doctor's practice of medicine in the Premises, and desires Company to provide such services.

NOW THEREFORE, for and in consideration of the agreements contained herein and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

1 Definitions.

For the purposes of this Agreement, the following terms shall have the following meanings ascribed thereto, unless otherwise clearly required by the context in which such term is used.

- 1.1 <u>Agreement</u>. The term "Agreement" shall mean this Facilities and Management Services Agreement between Doctor and Company and any written amendments hereto, as may from time to time be adopted by the Parties hereto, as hereinafter provided.
- 1.2 <u>Company</u>. The term "Company" shall mean the Professional Corporation, and any affiliates owned principally by the Company.
- 1.3 <u>Doctor</u>. The term "Doctor" shall mean Skin Deep Laser Medical Group, Inc, a California professional corporation.
- 1.4 <u>Practice Account.</u> The term "Practice Account" shall mean the bank account established as described in Sections 3.11 herein below.

in this Agreement and no others. All prior representations or agreements, whether written or verbal, not expressly incorporated herein are superseded. This Agreement may not be amended, supplemented, canceled or discharged except by written instrument executed by all parties hereto. This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute one instrument. It shall not be necessary that the signatures of all of the parties appear on each counterpart; it shall be sufficient that the signature of each party appear on one or more counterparts.

- 7.18 Rules of Construction. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits, certificates and schedules hereto. The term "include" or "including" shall mean without limitation by reason of enumeration.
- 7.19 Third Parties. None of the provisions of this Agreement shall be for the benefit of third parties or enforceable by any third party. Any agreement to pay an amount and any assumption of a liability herein contained, expressed or implied, shall only be for the benefit of the parties hereto and such agreement or assumption shall not inure to the benefit of the any third party, including an obligee.

IN WITNESS WHEREOF, Doctor and Company have executed this Agreement in multiple originals as of the date written above.

Doctor:

Dr. Sau R. Berger

It's President

Company:

Colin D. Hurren

It's President

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 47 Subject: Flash

Date: Wednesday, January 28, 2004 9:29 AM From: Alan Gerber <alan_gerber@javanex.com>

Reply-To: <alan_gerber@javanex.com>

To: 'Melissa Sunjaya' <melissa@bluelounge.com>

Dear Melissa,

In case you didn't get the attachment correctly, I also ftp'd the skin_deep.fla file to your site, under html/MEDSPA.

Sorry we got the fonts so messed up. We'll do better when we are not in such a rush.

Love,

Com Al

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 15, 2009 Page 48



STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

FICTITIOUS NAME PERMIT
APPLICATION

Fee - \$50 (non-refundable)
Please print or type

ARNOLD SCHWARZENEGGER, Governor



MEDICAL BOARD OF CALIFORNIA

LICENSING PROGRAM
1426 Howe Avenue, Suite 54
Sacramento, CA 95825-3236
(916) 283-2382 FAX (916) 263-2567

www.medbucs.gov



FOR OFFICE USE ONLY

Receipt No.:



IN CALIFORNIA YOU MAY ONLY PRACTICE MEDICINE AS A CORPORATION IF YOU ARE A CALIFORNIA PROFESSIONAL MEDICAL CORPORATION (Business and Professions Code §2402, CORPORATIONS CODE §13401.5)

| Aili | ncomplete or copied applications will be returned. |
|------|---|
| 1. | Owner's complete name, practice address and practice telephone number: (List at least one physician's name or, in the case of a corporation, the corporate name.) If there are more than one practice location, please list all practice locations under this fictitious name permit on an attachment. Saul R. Berger Berger Medical Corporation 101 South First St., Suite 1200 Burbank, CA 91502 |
| 2. | The applicant is applying as: (only check one) XX |
| 3. | In the space provided below, enter only one choice for your fictitious name. Additional choices may be submitted on an attachment in order of preference. Names of current Fictitious Name Permits are on the Medical Board of California Web site, www.medbu.ca.gov . Please review this site to determine if your name choice is swellable. Business and Professions Code §2285 prohibits practicing under a fictitious name until the Board has issued a Fictitious Name Permit. Skin Deep Laser Med Spa, A Medical Corporation |
| 4. | FOR PROFESSIONAL CORPORATIONS ONLY: Corporate Name (piease use the complete name) — Berger Medical Corporation Corporate # - 2570680 . Attach a copy of the Articles of Incorporation that indicates the status of the entity as a California professional medical corporation. The corporation must be a duly formed California professional medical corporation. |

14 (Rev. 11-28-03)

| 5. | If applying as an individual (Sole Proprietor) , ent If applying as a Partnership, enter your Federal E | er your Social Se mployer Identifica | curity Number. tion Number (FEI) | SSN/FEI | <u>N#</u> |
|-------------|--|--|--|--|---|
| | FOR CORPORATIONS ONLY: | | | | |
| | A licensed physician and surgeon must own at least The remaining 49% may be owned by: licensed proposed proposed proposed chiropractors, or licensed acupuncturists, physicians and cannot exceed a combined share to professional medical corporation in California. ANSWER THIS QUESTION IF ALL SHAREHOLD IF THERE ARE NON-PHYSICIAN SHAREHOLD. | odiatrists, licensed sts, licensed clinic The number of the otal of 49%. Alay | d psychologists, re al social workers, nese licensed pers (unlicensed) pers | gistered nurset licensed physic ons cannot exc | s, licensed cian assistants. ceed the number of |
| 5a . | | Sha | eholder? | Madios | al License No. |
| | Name (Attach edditional sheet(s), if necessary) | Yes | No | Medics | ai Citélige IV. |
| ۱ | Saul R. Berger | . xx - | | G62437 | 1 |
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| | | | | ~~~ | |
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| | | | | . <u> </u> | |
| | If ownership includes non-physicians, complete the shares and profession of all shareholders. If there FOR CORPORATIONS WITH NON-PHYSICIAN S | are no non-physi SHAREHOLDERS | cian owners, pleas | se continue to o | puestion 8. |
| | Names of ALL shareholders (Attach additional sheet/ necessary) | S). If Lice | 1\$8 NU. 7 | e or orieses | 7 1010321011 |
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| <u> </u> | FOR INDIVIDUALS (SOLE PRO | PRIFTORS) GR | OUPS AND PAR | TNERSHPS OF | NLY |
| | All owners of the applicant's organization mus enter the individual medical license number. | t be listed and s | ign below. Where | a indica ted, e a | ich awner musit also |
| 7. | The undersigned and each of the undersigned her California that statements made on this "Fictitious correct. | reby certifies unde Name Permit App | er penalty of perjury dication," and all a | y under the law ttachments the | rs of the State of reto, are true and |
| | Type Name and Title License # | Date | Signat | ure | |
| | Type Name and Title License # | Date | Signat | ure | , |
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14 (Rev. 11-28-03)

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| | Type Name and Title | License # | Date | Signature | |
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| | Type Name and Title | License # | Date | Signature | |
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| | Berger Medical | | | 25706 | |
| | (Complete Name of Corporation | nn) | | Corporation | # |
| | I certify at least 51% of said co | rnoration's shares of | a mused by a license | d obveician and surgeon or | nodiatrist and es |
| | such make this declaration for | and on behalf of said | corporation. I have | read the foregoing spolication | on and all |
| | attachments thereto and know | the contents thereof | , and the same are tru | ie of my own knowledge. | |
| | t e e e e e e e e e e e e e e e e e e e | | | | |
| ĺ | I declare under penalty of period have the legal authority to act | ury under the laws of | the State of California | s that I am a licensed physic eformation contained in this | asn or podiatrist and |
| 8. | attachments thereto is true and | | totation and mar me i | HOME BUT COMBUSES IN 1999 | Thingson and On |
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| | Curphan In | | 20 | Lanuari | 7004 |
| | Executed at OURDANH | Calif | ornia, thisd | _day of | |
| | (aty) | | | (month) \mathcal{J} | (Sear) |
| | By: Saul R. Be | erger | P | resident | |
| | Type or print: Name | Ω | Type o | or print: Corporate Title | |
| | 8 0 1 | 1/100 | • | | |
| | And (C) | . The | _ | | |
| | Signature | + 7 | | | 1 |
| | | | 1 | | · · |
| | Person to be contacted regard | ing this application: | | | |
| | R. Rosser Cole, | Esq. | | | |
| | Name | | Telephone Numb | ier | |
| S, | · · · · · · · · | | • | | |
| | 200 N. Maryland | Ave #302 | Glendal | e. CA | 91206 |
| | Address | | City | State | Zip Code |
| | 7 1 mm v 4 4 | | | | |

IF YOU WOULD LIKE A CONFIRMATION OF THE APPROVAL, PLEASE VISIT THE WEB SITE AT WWW.MEDBD.CA.GOV TO DOWNLOAD CONFIRMATION INFORMATION

14 (Rev. 11-28-03)

2570680



SECRETARY OF STATE

I, Kevin Shelley, Secretary of State of the State of California, hereby certify:

That the attached transcript of ____ page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

JAN - 7 2004

Secretary of State

les/State Form CE-107-(rev. 1/02)

OSP 03 80510 سزند

Ø 006

2570600

ENDORSED - FILED

In the office of the Secretary of State

of the State of California

ARTICLES OF INCORPORATION

DEC 2 6 2003

OF

KEVIN SHELLEY Secretary of State

BERGER MEDICAL CORPORATION

ARTICLE I. The name of this corporation is BERGER MEDICAL CORPORATION.

ARTICLE II. The purpose of the corporation is to engage in the profession of medicine and any other lawful activities (other than the banking or trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations. The corporation is a professional corporation within the meaning of Part 4 of Division 3 of Title 1 of the Corporations Code of the State of California.

ARTICLE III. The name and address in the State of California of the corporation's initial agent for service of process is Colin Hurren, located at 1981 New York Dr., Altadena, CA 91001.

ARTICLE IV. The total number of shares which this corporation is authorized to issue is Ten thousand (10,000), all of the same class, designated "Common Stock."

ARTICLE V. In any action for breach of directors' duties pursuant to Corporations Code Section 309, the liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

Dated this 24th day of December, 2003.

R. Rosser Cole, Esq.

The undersigned declares that he is the person who has executed these Articles of Incorporation and hereby declares that this instrument is the act and deed of the undersigned.

R. Rosser Cole, Esq.



R. ROSSER COLE

A LAW CORPORATION

200 NORTH MARYLAND AVENUE, SUITE 302 GLENDALE, CALIFORNIA 91206 E-MAIL: rosuer@earthlink.net

P. CHRISTENSEN

February 2, 2004

Médical Board of California Licensing Program 1426 Howe Avenue, Suite 54 Sacramento, CA 95825-3236

RE: Skin Deep Laser Med Spa. A Medical Corporation

Dear Medical Board:

Enclosed please find Fictitious Name Permit and a check for \$50.00 for the application fee. Please file the application.

Thank you very much for your attention to this matter. If you have any questions, please do not hesitate to contact our office.

Sincerely,

Liuska Rincon-Villagoniez

For R. Rosser Cole, Esq.

CITY OF PASADENA **Permit Center**

175 N. Garfield Ave. Pasadena, CA 91109-7215 (626) 744-4200

Call the Fire Department at (626) 744-4668 for Inspection Scheduling on Tents & Canopies

Permit #: TUP2003-01359

TEMPORARY STRUCTURE PERMIT

issued Date: 12/30/03

Expire Date: 02/10/04

5713-035-036 Parcel No:

Project Name:

Description of Work: PROMOTIONAL SIGN

Phone:

Owner.

PATRICIA S BEDFORD

Job Address: 425 S FAIR OAKS AVE COMMERCIAL BUILDING

445 S Fair Oaks Ave Pasadena, CA 91105

PLAN REVIEW FEES

PERMIT FEES

Temp Conditional Use Pe

Permit Fees Subtotal:

\$25,00

Plan Review Fees Subtotal:

Total Calculated Fees:

\$25.00

Waived Fees Subtotal:

Total Fees :

PERMIT EXPIRATION

THIS PERMIT SHALL EXPIRE IF THE WORK AUTHORIZED BY THIS PERMIT IS NOT COMMENCED WITHIN 180 DAYS FROM THE DATE OF THIS PERMIT AND VERIFIED BY INSPECTION,
THIS PERMIT SHALL EXPIRE IF THE WORK AUTHORIZED BY THIS PERMIT IS SUSPENDED OR ABANDONED AT ANY TIME AFTER THE WORK IS COMMENCED FOR A PERIOD OF 180 DAYS. (U.S.C. SECTION
108.4.1)

108.4-4)

<u>PERMITS FOR WORK IN RESIDENTIAL ZONES SHALL BE COMPLETED WITHIN A MAXIMUM OF 18 MONTHS FROM DATE OF ISSUANCE, UNLESS APPROVAL IS OBTAINED FOR AN EXTENSION.</u>

WHEN A PERMIT IN A RESIDENTIAL ZONE EXPIRES, THE PERMITTEE SHALL FOLLOW THE REQUIREMENTS AS SET FORTH IN ORDINANCE 6774, SECTION D. WORK MAY NOT CONTINUE OR RESUME FOR A PERIOD OF NOT LESS THAN 1 YEAR AT WHICH TIME A NEW PERMIT AND FEES MAY BE APPLIED FOR.

F THIS PROJECT IS IN OR WITHIN 800 FEET OF A RESIDENTIAL DISTRICT, CONSTRUCTION WORK AND THE OPERATION OF CONSTRUCTION EQUIPMENT SHALL TAKE PLACE ONLY DURING THE FOLLOWING HOURS:

MONDAY THRU SATURDAY SUNDAY

7:00 A.M. - 9:00 P.M. NOT PERMITTED (SEE MUNICIPAL CODE FOR EXCEPTIONS - P.M.C. 9:38.110)

USE OF STREET OR SIDEWALK
IF THE PUBLIC RIGHT-OF-WAY WILL BE OCCUPIED FOR THIS PROJECT. A PERMIT IS REQUIRED BY THE PUBLIC WORKS DEPARTMENT. CALL (\$28) 744-4195.
(P.M.C. 12-12-99)

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PLEASE BE INFORMED THAT THE CITY OF PASADERA HAS A MORATORIUM ON EXCAVATIONS IN RECENTLY PAVED STREETS. THE DEPARTMENT OF PUBLIC WORKS WILL ALLOW CUTTING OF A MORATORIUM STREET ONLY FOR EMERGENCIES OR NEW INSTALLATIONS WHERE NO OTHER SERVICE OPTIONS EXIST. ALTERNATIVE UTILITY CONNECTION OPTIONS MUST BE CONSIDERED. THE PERMITTEE WILL BE REQUIRED TO EXTENSIVELY REPAVE THE STREET IF NO ALTERNATIVES EXIST.

PLEASE CHECK THE "STREET EXCAVATION MORATORIUM AND FUTURE IMPROVEMENTS MAP - 2003" TO DETERMINE IF YOUR LOCATION IS AFFECTED.

IF YOU HAVE ANY QUESTIONS REGARDING THIS POLICY, CONTACT THE DEPARTMENT OF PUBLIC WORKS PERMIT COUNTER AT (626) 744-4196.

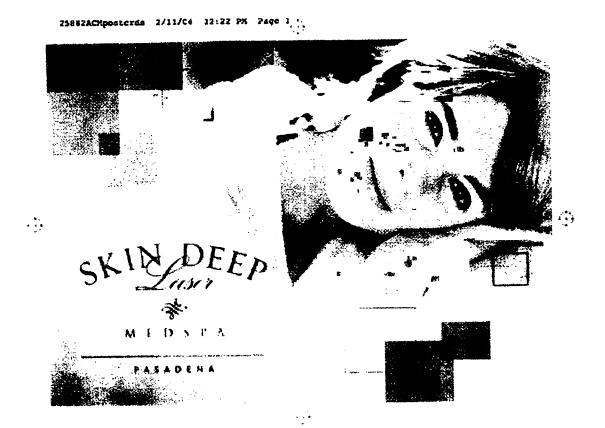
Cancellation No. 92044697 **Exhibits - Motion for Summary Judgment** March 15, 2009 Page 55 Subject: Re: ATTN: Melissa

Date: Wednesday, February 11, 2004 12:30 PM

From: EPP <epp@graphicvisionsla.com>

To: Melissa Sunjaya <melissa@bluelounge.com>

This is your postcards.





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2860 N. Ontario Fax 818-848-5447 Phone 818-845-8393 Burbank, California 91504 Graphic Visions

Click for a map to our location

sales@graphicvisionsla.com

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|-----------------|--|
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| enny Craft | jenny@graphicvisionsla.com |
| Manny Gil | manny@graphicvisionsla.com |
| Ken Langer | ken@graphicvisionsla.com |
| essica Medina | jessica@graphicvisionsla.com |
| Steven Milne | steve@graphicvisionsla.com |
| ennifer Serrano | jennifer@graphicvisionsla.com |
| Barbara Swanson | Barbara Swanson barbara@graphicvisionsla.com |
| Pre-Press | epp@graphicvisionsla.com |

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Medical Board of California



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MARCH 31, 2006

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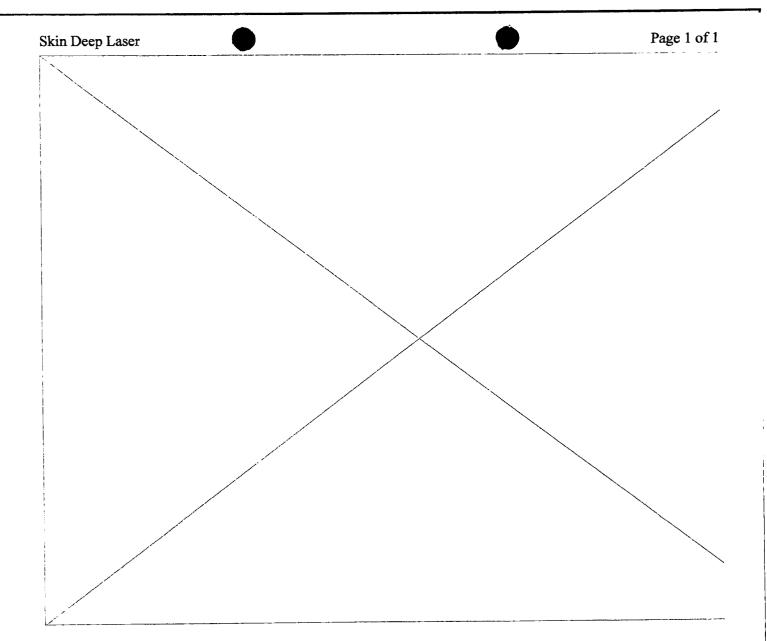
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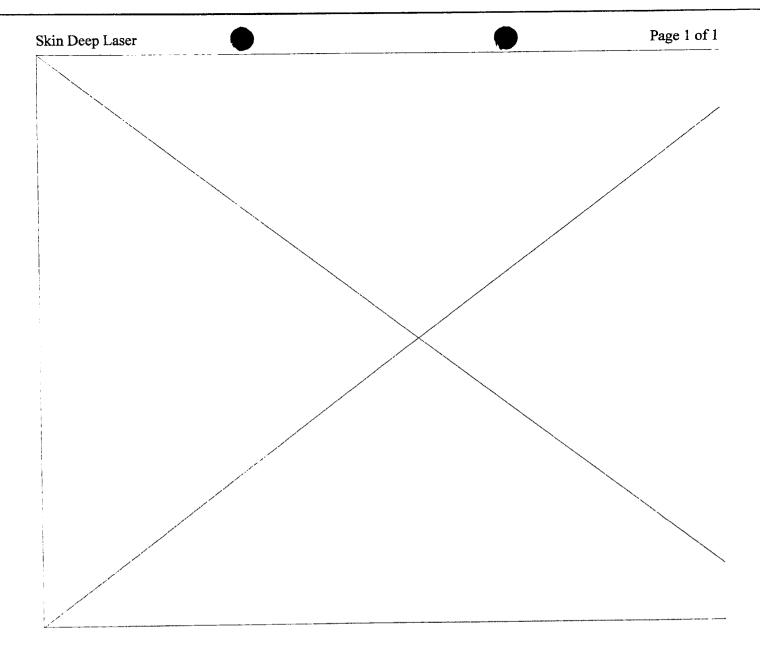
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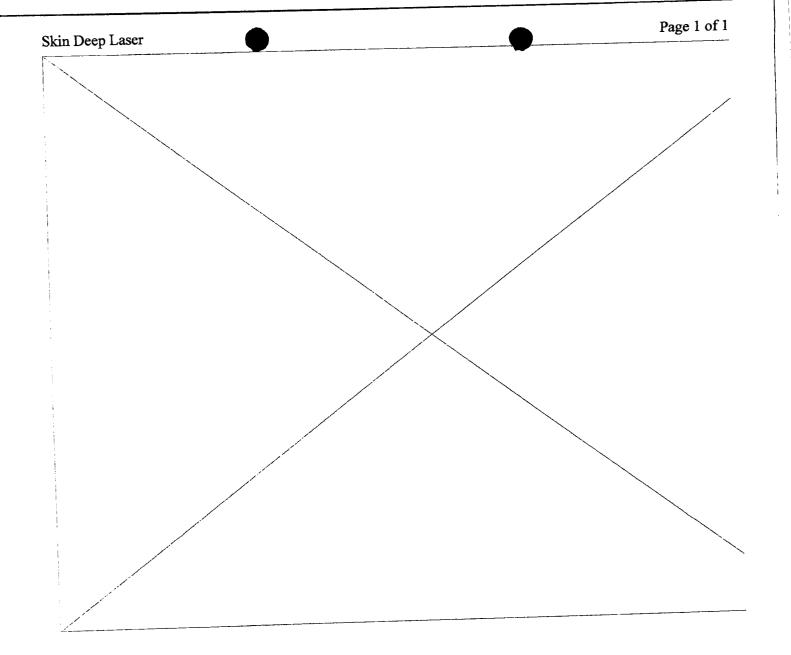


Dear Doctor Martello, Firstly, let me say how much I enjoy your radio show it is now part of my Saturday morning. I am the owner of Skin Deep Laser Med Spa in Pasadena. Not surprisingly we do get several people contacting us who are looking for you. I wanted to let you know we do pass on your contact information to them.

The other reason I wanted to contact you is to make you aware of a good friend of mine Jennifer Barnes who I think could be an interesting resource for you. Jennifer is a wonderful young lady who is quite well known and well thought of in the aesthetic world. She has a very interesting background; she was Editor-in Chief of a publication called

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75 Society Wemberships Practice Philosophy Office Location/Hours Payment/Insurance Surgical Facilities | Hospital Affiliations Specialties | Board Certifications Professional Background Consultation 37.5

Suite 1200 Saul R. Berger, MD

Burbank, CA 91502 101 South First Street

Contact br. Berger

PLASTIC SURCEONS

Member

Practice Philosophy

available for cosmetic procedures. Additional information about Dr. Berger, his experienced, handpicked operating room team. Complimentary consultations are incisions. Most surgeries can be performed as outpatient in an AAAASF accredited endoscopic approaches and even procedures in which there are no visible healing with less discomfort. This includes frequent use of minimal incision and surgical techniques and new technologies to achieve his results and to foster rapid way existing procedures are done. He also advocates combining a variety of treatment. Patients directly benefit from his ongoing efforts to improve upon the extensive experience in both cosmetic and reconstructive procedures to each meetings, and chaired local Plastic Surgery symposia. Dr. Berger brings an training. He also has published in peer review journals, presented at national He obtained board Certification in both specialties and has been practicing in the outstanding training in both General Surgery at the Mount Sinai School of services with the utmost professionalism. The foundation of this capability is his Dr. Saul R. Berger is dedicated to providing the highest level of Plastic Surgery staff and a variety of procedures can be sent upon request. surgicenter in collaboration with Board Certified Anesthesiologists and an patient consultation to create an effective, safe and sophisticated plan of USC as Clinical Assistant Professor of Surgery and has participated in residency ι os Angeles area for more than 12 years. He has maintained his affiliatìon with Medicine in New York and Plastic Surgery at the prestigious USC in Los Angeles.

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non-surgical therapies to Restylane and Other proven ineffective. results and others have others with disastrous some with good results, materials have been tried; wrinkles and aglng. Many appearance of facial remove or reduce the and patients have sought Injectables At-A-Glance For centuries, physicians

10 to

of Plastic Surgeons (ASPS). surgery patients increased according to new statistics to more than 6.2 million, percent in 2002 from 2001 reconstructive plastic The number of Surgery Patients Treated Reconstructive Plastic More Than 6 Million from the American Society

More

fallowing procedures: Dr. Berger performs the

- Botox Injections
- Breast Augmentation Breast Implant Removal
- Breast Reconstruction
- **Breast Reduction Surgery**
- Chemical or Micro Peels Check implants
- Chin Surgery
- Cleft-Lip and Palate Repair
- Collagen Injections
- Cosmetic Surgery
- Dermabrasion
- Ear Deformity Surgery
- Ear Pinning Surgery
- Endoscopic Technique
- Eyelid Surgery
- Forehead Lift
- General Reconstruction
- HMiO/PPO/Other Insurance

Burbank, CA 91502 101 South First Street Location / Office Hours:

- Head-Neck Cancer Reconstruction
- Lasor Skin Resurfacing
- Lip Augmentation/Enhancement
- Male Breast Reduction Surgery

See Map

some Saturdays and evenings available by appointment

Back to top

Monday through Friday 9:00 am - 5:00 pm

Office Hours: Fax: (818) 569-7007 Phone: (818) 569-7000

- Nose Surgery
- Relin-A Treatments Patient Financing
- Scar Revision
- Skin Cancer Reconstruction
- Thigh Lift
- Upper Arm Lift
- Tummy Tuck

Board Certification:

TRAM Flap Breast Reconstruction American Board of Plastic Surgery - 1992

Anterican Board of General Surgery - 1989

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Wrinkle Reduction by Injection

credit card

Lack to top

Education:
Albany Medical College (M.D.) 1979-1983
The Mount Sinal School of Medicine (General Surgery) 1983-1988
University of Southern California (Plastic Surgery) 1988-1990

Mack to top

Society Memberships:

American College of Surgeons Los Angeles Society of Plastic Surgeons American Society of Plastic Surgeons

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Hospital Affiliations:

Providence St. Joseph's Medical Conter-West Hills Surgical Center West Hills Hospital and Medical Center Glendale Adventist Medical Center Glendale Memorial Medical Center

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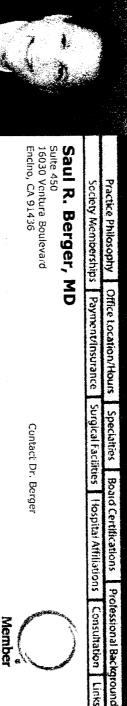
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Dr. Berger performs the following procedures:

- Botox Injections
- Breast Augmentation
- Breast Implant Removal
- Breast Lift
- **Breast Reconstruction**
- Breast Reduction Surgery
- Cheek Implants
- Chemical or Micro Peels
- Chin Surgery
- Collagen Injections

Cosmetic Surgery

- Dermabrasion
- Ear Deformity Surgery
- Ear Pinning Surgery
- Endoscopic Technique
- Eyelid Surgery
- Facelift
- Forehead Lift
- General Reconstruction
- Head-Neck Cancer Reconstruction
- Laser Hair Removal
- Laser Skin Resurfacing
- Ę Augmentation/Enhancement
- Male Breast Reduction Surgery Liposuction
- Nose Surgery
- Retin-A Treatments Scar Revision

- Reconstruction
- TRAM Flap Breast

American Board of Plastic Surgery - 1992

Board Certification:

American Board of General Surgery - 1989

- Skin Cancer Reconstruction

Practice Philosophy

ongoing efforts to improve upon the way existing procedures are done. He also effective, safe and sophisticated plan of treatment. Patients directly benefit from his area for more than 14 years. He has maintained his affiliation with USC as Clinical board Certification in both specialties and has been practicing in the Los Angeles outstanding training in both General Surgery at the Mount Sinal School of Medicine services with the utmost professionalism. The foundation of this capability is his information about Dr. Berger, his staff and a variety of procedures can be sent upon Anesthesiologists and an experienced, handpicked operating room team. Additional a AAAASF-accredited operating room in collaboration with Board Certified achieve his results and to foster rapid healing with less discomfort. This includes advocates combining a variety of surgical techniques and new technologies to published in peer review journals, presented at national meetings, and chaired local Assistant Professor of Surgery and has participated in residency training. He also has in New York and Plastic Surgery at the prestigious USC in Los Angeles. He obtained Dr. Saul R. Berger is dedicated to providing the highest level of Plastic Surgery request which there are no visible incisions. Most surgeries can be performed as outpatient in cosmetic and reconstructive procedures to each patient consultation to create an Plastic Surgery symposia. Dr. Berger brings an extensive experience in both frequent use of minimal incision and endoscopic approaches and even procedures in



Location / Office Hours:

16030 Ventura Boulevard

Encino, CA 91436 Phone: (818) 990-4545

Fax: (818) 990-7474

Office Hours:

some Saturdays and evenings available by appointment Monday through Friday 9:00 am - 5:00 pm

See Map

Dank to Jop

areas of special interest include: (1)Minimal incision or reduced scar techniques; general anesthesia well; and(6)Non-surgical rejuvenation techniques. FotoFacial RF Skin Rejuvenation; (5)Anesthesia for patients who do not tolerate Dr. Berger provides expertise in the full range of plastic and cosmetic surgery. His Specialty: (2)"Natural"-appearing facelifts; (3)Breast augmentation without breast scars; (4)

AMERICAN SOCIETY OF Member

When Choosing From Restylane® To Surgery Cosmetic Plastic Credentials Paramount Facelifts - Checking

anatomy as well as side Botox ® are medical such as Restylane and qualified to perform the injectables or facelifts, effects of the product. neuromuscular and facial qualifled physician who be performed by a procedures that should that their physician is patients must determine Whether considering procedure. Injectables

Regulatory Process ASPS Supports FDA Regarding Silicone

about these devices. The ASPS looks forward to accurate information on all available and their health care based to helping women make Breast Implants of FDA's silicone breast helpful in the completion information that may be manufacturers with providing the FDA and informed choices about The ASPS is committed

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Turnmy Tuck

Upper Arm Lift

Wrinkle Reduction by Injection

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More

Education:

Albany Medical College (M.D.) 1979-1983
The Mount Sinai School of Medicine (General Surgery) 1983-1989
University of Southern California (Plastic Surgery) 1988-1990

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Society Memberships: American Society of Plastic Surgeons Los Angeles Society of Plastic Surgeons American College of Surgeons American Society for Aesthetic Plastic Surgery

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Insurance / Managed Care:

Integrated Health Most PPOs -- please inquire Cigna Motion Picture Health

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Payment Options: Cash/Personal Checks

MasterCard American Express Patient Financing Discover

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Visa

Surgical Facilities:
Fully accredited office operating room

Cack to tup

Glendale Adventist Modical Center Hospital Affiliations:
Providence St. Joseph's Medical Center Glendale Meniorial Medical Center West Hills Hospital and Medical Center

dens on sceed

Consultation:

Dr. Berger schedules consultations by appointment and offers flexible hours. Every patient can be assured of a thorough evaluation by Dr. Berger personally and an opportunity to meet with the staff.

Bask to top

Online Consultations: 6887



following procedures: Dr. Berger performs the

- Botox® Injections
- Breast Augmentation
- Breast Implant Removal
- Breast Lift
- Breast Reconstruction
- **Breast Reduction Surgery**
- Cheek Implants
- Chemical or Micro Peels
- Chin Surgery
- Collagen Injections
- Dermabrasion Cosmetic Surgery
- Ear Pinning Surgery Ear Deformity Surgery
- Endoscopic Technique
- Eyelid Surgery
- Facelift
- Forehead Lift
- General Reconstruction
- Head-Neck Cancer Reconstruction
- Laser Hair Removal
- Lascr Skin Resurfacing
- Augmentation/Enhancement
- Male Breast Reduction Surgery
- Retin-A Treatments
- Scar Revision
- Skin Cancer Reconstruction
- Reconstruction TRAM Flap Breast
- Thigh Lift

Office Location/Hours

Specialties | Board Certifications | Professional Background

Surgical Facilities Hospital Affiliations Consultation

Links

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Contact Dr. Serger

Practice Philosophy

advocates combining a variety of surgical techniques and new technologies to effective, safe and sophisticated plan of treatment. Patients directly benefit from his area for more than 14 years. He has maintained his affiliation with USC as Clinical In New York and Plastic Surgery at the prestigious USC in Los Angeles. He obtained outstanding training in both General Surgery at the Mount Sinal School of Medicine services with the utmost professionalism. The foundation of this capability is his Dr. Saul R. Berger is dedicated to providing the highest level of Plastic Surgery Anesthesiologists and an experienced, handpicked operating room team. Additional frequent use of minimal incision and endoscopic approaches and even procedures in achieve his results and to foster rapid healing with less discomfort. This includes ongoing efforts to improve upon the way existing procedures are done. He also cosmetic and reconstructive procedures to each patient consultation to create an published in peer review journals, presented at national meetings, and chaired local Assistant Professor of Surgery and has participated in residency training. He also has information about Dr. Berger, his staff and a variety of procedures can be sent upon a AAAASF-accredited operating room in collaboration with Board Certifled which there are no visible incisions. Most surgeries can be performed as outpatient in Plastic Surgery symposia. Dr. Berger brings an extensive experience in both board Certification in both specialties and has been practicing in the Los Angeles request

Deck to igo

Location / Office Hours:

Suite 450 16030 Ventura Boulevard

Encino, CA 91436

Phone: (818) 990-4545 Fax: (818) 990-7474

Office Hours:

some Saturdays and evenings available by appointment Monday through Friday 9:00 am - 5:00 pm

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Specialty:

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Hack to top

ASPS Supports FDA

Regulatory Process

on all available and about these devices. The accurate information their health care based of FDA's silicone breast helpful in the completion information that may be manufacturers with ASPS looks forward to informed choices about to helping women make **Breast Implants** Regarding Silicone implant review. providing the FDA and The ASPS is committed

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anatomy as well as side neuromuscular and facia understands qualified physician who be performed by a procedures that should Botox (8) are medical such as Restylane and procedure. Injectables qualified to perform the that their physician is patients must determine injectables or facelifts, Whether considering effects of the product.

More

Board Certification:

American Board of General Surgery - 1989 American Board of Plastic Surgery - 1992

http://web.archive.org/web/20041204223132/www.plasticsurgery.org/md/show_doc_frame.cfm?ID=5234

Tunnny Tuck

Upper Arm Lift

Wrinkle Reduction by Injection

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Education:Albany Mcdical College (M.D.) 1979-1983
The Mount Sinal School of Medicine (General Surgery) 1963-1968
University of Southern California (Plastic Surgery) 1988-1990

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Society Memberships:

American Society of Plastic Surgeons Los Angeles Society of Plastic Surgeons American Society for Aesthetic Plastic Surgery American College of Surgeons

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Saul R. Berger, MD

Encino, CA 91436 16030 Ventura Boulevard

Cor tact Dr. Berger

Practice Philosophy

ongoing efforts to improve upon the way existing procedures are done. He also effective, safe and sophisticated plan of treatment. Patients directly benefit from his published in peer review journals, presented at national meetings, and chaired local board Certification in both specialties and has been practicing in the Los Angeles in New York and Plastic Surgery at the prestigious USC in Los Angeles. He obtained outstanding training in both General Surgery at the Mount Sinal School of Medicine scrvices with the utmost professionalism. The foundation of this capability is his Dr. Saul R. Berger is dedicated to providing the highest level of Plastic Surgery information about Dr. Berger, his staff and a variety of procedures can be sent upon Anesthesiologists and an experienced, handpicked operating room team. Additional a AAAASF-accredited operating room in collaboration with Board Certified achieve his results and to foster rapid healing with less discomfort. This includes advocates combining a variety of surgical techniques and new technologies to cosmetic and reconstructive procedures to each patient consultation to create an Plastic Surgery symposia. Dr. Berger brings an extensive experience in both Assistant Professor of Surgery and has participated in residency training. He also has area for more than 14 years. He has maintained his affiliation with USC as Clinical which there are no visible incisions. Most surgeries can be performed as outpatient in frequent use of minimal incision and endoscopic approaches and even procedures in

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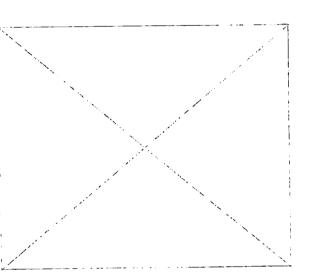
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capability is his outstanding training in both General Surgery at the Mount Sinai School of Medicine in New York and Plastic Surgery at the prestigious USC in Los Angeles. He obtained board Certification in both specialties and has been practicing in the Los Angeles area for more than 15 years. He has maintained his affiliation with USC as Clinical Assistant Professor of Surgery and has participated in residency training. He also has published in peer review journals, presented at national meetings, and chaired local Plastic Surgery symposia. Dr. Berger brings an extensive experience in both cosmetic and reconstructive procedures to each patient consultation to create an effective, safe and sophisticated plan of treatment. Patients directly benefit from his ongoing efforts to improve upon the way existing procedures are done. He also advocates combining a variety of surgical techniques and new technologies to achieve his results and to foster rapid healing with less discomfort. This includes frequent use of minimal incision and endoscopic approaches and even procedures in which there are no visible incisions.

Dr. Berger is the Medical Director for the Skin Deep Aesthetic Center in Encino, CA and the Skin Deep Laser Medspa in Pasadena, CA. The full spectrum of medical spa therapies available are seamlessly integrated into the total care of his plastic surgery patients. He performs his cosmetic surgeries at a state-of-the-art surgery center located at the Aesthetic Center in collaboration with board certified anesthesiologists and an experienced, handpicked operating room team. Additional information about Dr. Berger, his staff and a variety of procedures can be sent upon request.

Undergraduate:

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Saul R Berger M.D.

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of your need for rest, relaxation work with are in search of that everyday life. the bustle and bustle of their inner tranquility as respite from or a new perspective. The clients peace, tranquility, a slower pace. part of you that makes you aware inner self? Your inner self is the Are you in touch with your to do it ... but most of us have no sit in a yoga position and chant meditate? No, you don't have to of your outer self. How do you and recharge the depleted energy real meditation experience of "OM" ... which is not a bad way

If you are like them, you are

meditation in our everyday lives.

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inactivity so you can rejuvenate inner self through meditation can help you to balance activity with Getting in touch with your

counseling. She can be reached at (818) 773-8826 minister with a degree in in private practice and specializes Certified Clinical Hypnotherapist Theology She is also a Board Therapy and Spiritual Intuitive Stress Reduction, Drewn

garden, the park), a comfortable touch with your inner self so that a still mind. Having a still mind specific thought like "Love for my chair or lying down on the couch position (sitting in a comfortable quiet place (your bedroom, the ly at peace. aware of your thoughts, percepyou become, over time, more mental activity can put you in one that is free of chatter and partner" or "Peace at work"), and lit candle, a stone or crystal or a word such as "Peace," "Love," a or floor), an object to dwell on (a tions and feelings...yet feel total-Meditation needs only a peaceful

with your self and that practice results in progress! Remember to have patience

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and is active for about three to four longer to become fully effective medication takes several days or

were accidentally discovered in the ence never ceases to amaze. Just as duced by the same bacterium name of a purified substance pro-Allergan Company) is the trade botulinum." Botox® (produced by duced by the bacterium "clostridium combrace, the benefits of a toxin prohave we come to discover, and growth of mold in a culture dish, so the remarkable benefits of penicillin The ingenuity of medical sci-

stance has been adapted for medical use and rejuvenation in America is a remarkable story. become the "sweetheart" of non-surgical facial responsible for the illness boulism. How this sub-

caused wrinkling of skin and scientific reports of spasm). It was later adapted to treat other disorproblems by 1989 (e.g. crossed eyes or eyelid medical conditions occur because of muscle safe track record, the FDA approved the use of linum toxin was noted to relax muscles that ation of muscles. During these therapies, butuders in the neck that also benefited from relaxlinum toxin dates back to research in the '60s and spasm or imbalance. The beneficial use of botuthis substance for cosmetic purposes. lished by 1998. In 2002, after many years with a the cosmetic benefits of bottlinum use were pub-70s which led to its use in treating eye muscle It had been known for many years that certain

such as "frown lines" between the eyebrows or a nerve and its target muscle to interfere with the fort in skilled hands in just a few minutes. The muscles, and can be given with minimal discoman extremely fine needle directly into the target appearance of wrinkles and can even make shalenough time, this phenomenon reduces the and stop folding the skin that creates wrinkles the muscle is no longer stimulated, it will relax chemicals that signal a muscle to contract. Once low lines disappear. Botox is administered with "crow's feet" at the sides of the eyes. Given Boton works by attaching near the junction of



Dr. Saul Berger.

site of injection, and the emounts months. The effects are local to the trealment - pregnancy or a bleedder an individual unsuitable for considered toxic for the body. Very improvement are far below levels needed to ing tendency would probably be the few medical situations would renmost common. achieve cosmetic

and storage of the material, (2) accurate injection into the specific mustreaument are (1) proper handling The keys to a successful Botox

non-medical environment (ex. "Botox party") or aspects can result in a disappointing outcome and achieve the best result. Deficiencies in any of these cles desired, and (3) injection of the proper dose to is under the supervision of a board-certified plasally receiving. A safe way to start Botox therapy being treated rather than the actual Botox dose always be wary of paying fees based on the area my and function of the muscles. Patients should by a practitioner who is not an expert in the anatomay be more likely if an individual is injected in a ular practice. they may not know how many units they are actutic surgeon who uses Botox as part of his/her reg

a tiny bacterium could create such a buzz? sweating disorders. Who would have thought that migraine headaches and was just approved by the cent increase over 2002. And the innovative uses given in the U.S. in 2003 - this represents a 37 per-FDA last month for the treatment of underarm shown to be highly effective in the prevention of has exploded: Over 2.2 million treatments were for Botox continue to be unveiled as it has been Over the past few years, the demand for Botox

type setting and is located at 425 S. Fair Oaks cosmetic medical treatments and products in a spasurgery practice in Burbank. Skin Deep provides Deep Laser Med Spa and also has a busy plastic 8873 or visit wysw.skindeeplaser.com Pasadena. The telephone number is (626) 449 Dr. Saul Berger is the Medical Director at Skin

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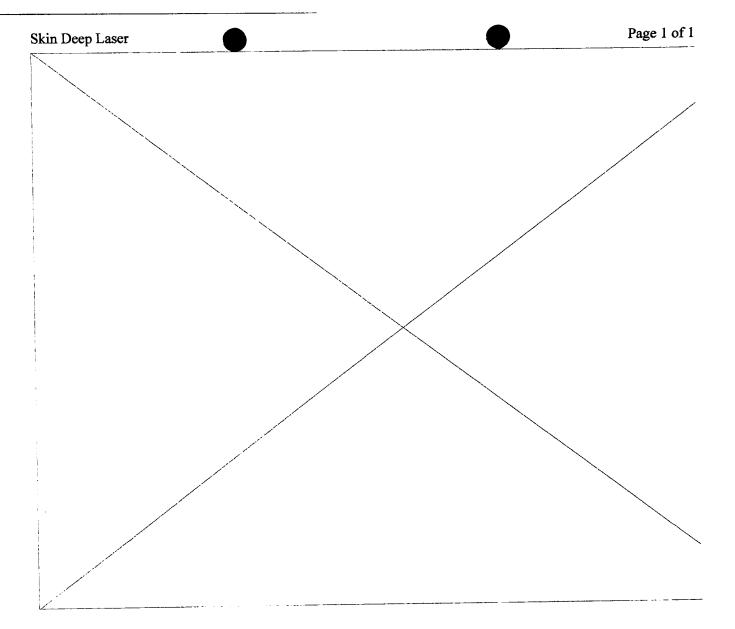
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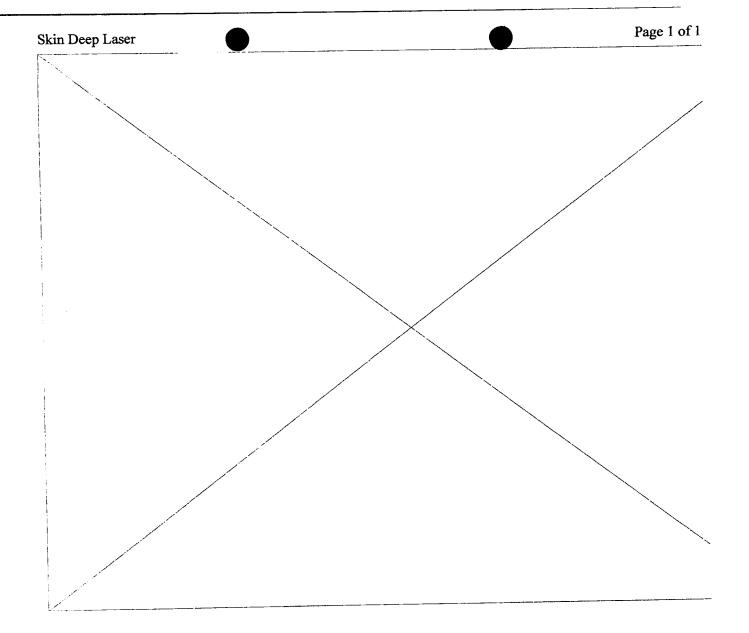
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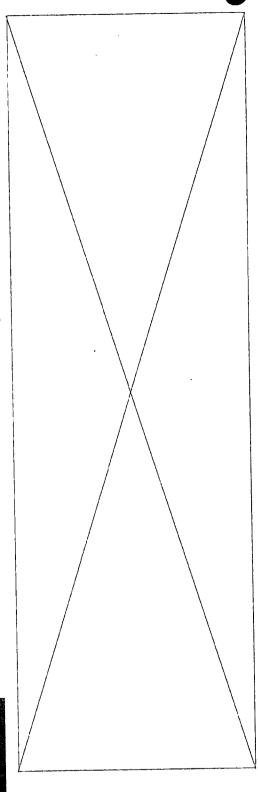
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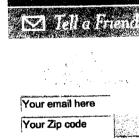












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DECLARATION OF COLIN HURREN

I, Colin Hurren, declare as follows:

- 1. I am the Respondent in the above-entitled matter. The facts contained in this Declaration are known to me of my own personal knowledge, and I am competent to testify thereto.
- 2. I submit this declaration in support of my request for (1) a **protective order** so that the confidentiality of the patients at Skin Deep Laser Medspa (hereinafter "Medspa") is protected (2) an order requiring Petitioner to participate in a **vocational examination** (3) **attorney's fees** associated with filling this Notice of Motion.
- 3. On December 7, 2007, my attorney Donald P. Schweitzer, sent a letter to Meredith Manker, Petitioner's attorney of record at the time. That letter requested Petitioner's cooperation in entering into a stipulation on the two aforementioned issues. My attorney also attached a proposed stipulation to that letter. The December 7th letter along with the proposed stipulation is attached hereto and incorporated by reference as Exhibit "A". To date, Petitioner has not responded to that request. It is for this reason that I am forced to seek judicial relief.

SHORTEN TIME

1. In an effort to preserve judicial resources, I ask that the court hear this Notice of Motion along with the other matters pending before this court on **January 22, 2008**. Petitioner's OSC to be heard on January 22 concerns financial issues such as child and spousal support. My request for the vocational examination is directly related to the financial issues and is therefore an appropriate issue to be decided as soon as possible. Furthermore, I gave

Petitioner nearly a month to review the a proposed stipulation on these issues. Thus, I respectfully request that the court shorten time for service of this Notice of Motion to 11 court days (15 calendar days) so that the issue of the protective order and the vocational examination can be heard on January 22, 2008.

PROTECTIVE ORDER

2. As previously represented to this Court, I own a business named Skin Deep Laser Medspa. At one point, both Petitioner and I had access to all of the confidential files. A protective order is necessary to prevent public disclosure of information which may result in irreparable harm or injury to third party patients of the Medpsa. In an effort to protect the privacy rights of my patients, I respectfully request a protective order.

VOCATIONAL EXAMINATION

3. The December 7th letter attached in Exhibit "A" also requested Petitioner's cooperation in a vocational examination for the purpose of determining her earning capacity. This is a reasonable request in light of the support issues pending before this court. I am also amenable to paying for the vocational examination. For these reasons, I respectfully request that the court order Petitioner to cooperate in a vocational examination, including meeting with a vocational counselor that I designate, and provide me with a copy of the evaluation.

ATTORNEY'S FEES

4. As demonstrated in Exhibit "A", I reasonably attempted to resolve the issues by way of correspondence with Petitioner's counsel. In addition, my attorney drafted a proposed stipulation for Petitioner's review. I believe that the

aforementioned issues should have been easily resolved without the need of judicial intervention. But instead, I incurred approximately \$1,000 in attorney's fees. Thus, I respectfully request that the court order Petitioner to pay for my attorney's fees associated with filing this Notice of Motion.

CONCLUSION

- 5. In summation, I respectfully request that this court order the following:
 - a. A protective order for the purpose of protecting the privacy rights of my patients at the Medspa;
 - An order requiring Petitioner to cooperate in a vocational examination, including meeting with a vocational counselor designated by me;
 - c. \$1,000 in attorney's fees and costs associated with filing this Notice of Motion.

I hereby declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this 4th day of January 2007, at Pasadena, California.

Colin Hurren Declarant

Marriage of Hurren, Case No; GD 040122

DECLARATION OF COLIN HURREN

- I, Colin Hurren, declare as follows:
- 1. I am the Respondent in the above-entitled matter. The facts contained in this Declaration are known to me of my own personal knowledge, and I am competent to testify thereto.
- 2. I submit this declaration in support of my request for domestic violence restraining orders against Janet Hurren, the Petitioner in the dissolution action previously filed with this court.
- 3. Petitioner, Janet Hurren, filed a dissolution action on October 11, 2006. In late November of 2006, I filed my Response and Request for a dissolution of our marriage. In February of this year, I served Petitioner with my preliminary declaration of disclosure.
- 4. Other than the aforementioned activity, very little has occurred procedurally in the action. In fact, Petitioner and I have been able to co-parent our children successfully and have been working on the creation of a Stipulated Judgment for several months now. For the most part, we have been able to communicate with one another enough to resolve any interim issues which have arisen during the creation of the aforementioned Stipulated Judgment, including, but not limited to, custody, visitation, and support. Since our separation, we have been dividing our time with our three children equally. I would request that the court order this informal schedule to remain in place.
- 5. This past Friday, September 28, Mrs. Hurren came to my company, Skin Deep Laser Medspa, in Pasadena. I remained in my office in order to avoid contact with her. Mrs. Hurren opened my office door and said "oh I see you're going to make \$100,000 this year." She then slammed the door and proceeded to



the treatment room for a follow-up visit. I then went into the treatment room and asked Mrs. Hurren to leave but she refused.

- 6. After her treatment Mrs. Hurren proceeded to the reception area. In the presence of several clients Mrs. Hurren removed a painting off the wall. As I proceeded to grab the painting, Mrs. Hurren punched me in the chest. After asking her to leave for a second time, Mrs. Hurren punched me again in the back. At that point I advised Mrs. Hurren that if she did not leave my company I would call the police. Mrs. Hurren then punched me in the back a third time.
- 7. My receptionist called the police and they arrived shortly thereafter. The police interviewed me as well as members of my staff. Mrs. Hurren was then arrested and taken in a police car.
- 8. Recently, within the past month or so, our amicable relationship has deteriorated as a result of Mrs. Hurren's behavior. Around this time, Mrs. Hurren discovered that I was spending time with a female companion. Following this discovery, her communications with me became confrontational and abusive. She e-mailed and telephoned me often to discuss her displeasure with our marital situation and the terms of the Stipulated Judgment we were negotiating with the help of our respective attorneys. The vast majority of her complaints dealt with her desire for more of our marital assets, as well as monthly support.
- 9. In order to limit negative contact between us, I asked that she not contact me so often and in such a threatening manner. Mrs. Hurren refused to respect my request and continued to contact me several times a day in a demanding and threatening manner.
- 10. Approximately two weeks before the incident at my company, Mrs. Hurren ventured into my office unannounced and demanded that I provide her with the monthly support figure that we had previously agreed upon for the children's care. At the time, I was in a meeting with my head nurse, a Ms. Liza Papadopolous. As I already had the check prepared to provide her with later that

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DECLARATION OF COLIN HURREN

day, I quickly located and handed Ms. Hurren her support check, asking that she leave immediately. She looked at the check I had just handed her and became visibly disturbed. (I can only assume that she was displeased with the amount I provided her with, as I had made some deductions from said support based on recent payments I had made on her behalf). At that point, she demanded that I speak with her alone immediately.

11. In a very controlled voice, I informed her that I could not argue with

- 11. In a very controlled voice, I informed her that I could not argue with her about the support at this time, as I was in a business meeting. She raised her voice and continued to insist that we discuss the matter then and there. Again, I indicated that I had to get through the meeting and that we would speak later. Mrs. Hurren became even more visibly agitated. She indicated that she would not leave until we spoke. When I continued to insist that we defer our talk, she yelled that there was no more settlement agreement, and that I should "get ready to rumble." She then spun around and stomped out of my office. I took Mrs. Hurren's statement to mean that she would attempt to make the remainder of our dissolution process as difficult and contested as possible until I succumbed to her financial demands. I have attached a brief declaration from my head nurse, a Ms. Liza Papadopolous, who witnessed the entire incident.
- 12. In the days that followed, I received various phone calls and e-mails from Mrs. Hurren. In each, she continued to indicate to me that there would be no settlement talks any longer. She stated that she had visited a "new" attorney and an accountant that would assist her in ensuring that I would not have a penny left to my name at the conclusion of our divorce proceedings.
- 13. At one point shortly after the incident at my office, Mrs. Hurren indicated to me that she had been to my company during non-business hours, while only the cleaning service was present. She informed me that she entered my office during this time, and removed various documents, including some outstanding credit card bills and invoices for my business. Mrs. Hurren then





boasted that she downloaded the QuickBooks associated with the business for her accountant's review. She has still not returned the documentation she removed, despite the fact that I have informed her it is necessary for the operation of the business.

- 14. On Monday, September 3rd, Mrs. Hurren called me nine (9) times to threaten and or berate me over various financial issues. These calls, like most of Mrs. Hurren's calls in the past few weeks, have been replete with foul language and rambling financial demands. What's more, I have also received uncharacteristically hostile communications from my oldest son since the relationship has broken down between Mrs. Hurren and I. I suspect that Mrs. Hurren has begun to disparage me to or in the presence of our children. I would request that the court order all disparaging communication to cease immediately.
- 15. I am very concerned that Mrs. Hurren will invade the business again and remove integral documents. She also has keys to my apartment, which I am afraid she will utilize if she becomes angry with me in the near future. Furthermore, her continuous threats against my person (as communicated through e-mail and telephone) are becoming more and more obsessive and pervasive.
- 16. I would ask that the court order both personal conduct and stay away orders against Petitioner. I would also request that Petitioner be ordered to return all materials she absconded from my business address and refrain from making any disparaging comments regarding me to or in the presence of our children.

I hereby declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this ____ day of September 2007, at Pasadena, California.

Colin Hurren Declarant

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aw Offices of Ronald M

DECLARATION OF PETITIONER

I, JANET HURREN, declare as follows:

- 1. I am Petitioner in the within matter. The following facts are true, correct, and within my personal knowledge, except for those matters stated on information and belief, and as to those, I believe them to be true. If called upon to testify thereto under oath, I could and would do so competently.
- 2. I offer this Declaration in lieu of personal testimony pursuant to CCCP § 2009, 2015.5; Cal. Rules of Court, Rule 1225; Reifler v. Superior Court (1974) 39 CA3d 479; and Marriage of Stevenot (1984) 154 CA3d 1051.

BACKGROUND

- 3. Respondent and I were married on December 29, 1989 and we have three children together; Alexander Hurren, age 16, Chase Hurren, age 14, and Mackenzie Hurren age 13.
- 4. Respondent and I separated on September 1, 2006, and I filed the Petition in this matter on October 11, 2006.
- 5. Until recently, the dissolution process had been cooperative and collaborative. I thought we were making steady progress towards settlement of all issues. However, it became obvious after reviewing Respondent's Preliminary Declaration of Disclosure, that he was grossly under-reporting his income in an attempt to reduce his support obligations.
- 6. In February of 2002, Respondent had a nervous breakdown over the fear of loosing his job. Our personal physician, Dr. Stephen Henry, recommended psychiatric hospitalization, but I did not want my husband and the father of my children to wake up in a psychiatric hospital. I requested that I be allowed to act as his nurse and that we treat Respondent's condition at home.
- 7. Over the next 18 months, Respondent's physician prescribed a parade of medications in the hope of finding the right medication or combination of medications. Respondent was put on Alprozilam, to sedate him and also on Ambien, Respedril, Clonapin, Zyprexa, Lexapro, and many other prescription drugs over the course of the 18 months. During this 18 month period, around about May 2002, Respondent began treatment with Psychiatrist, Dr Richard Atkins. I had to attend the first several sessions as Respondent was unable to tell the doctor what medications he had tried Cancellation No. 92044697 Exhibits Motion for Summary Judgment

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and what the effects had been. I had charted all the meds, dosages and then adjusted them according to Dr. Atkins instruction until a few months later when Respondent could manage the sessions on his own.

- 8. Respondent's job ended approximately ten months later in January 2003. He acquired some part time projects in the following months, but he was having no luck finding a permanent job. In August 2003, my brother had come across a business idea that he shared with us. Respondent investigated a franchise pitch for the business (Medical Spa) and liked the concept. At this time we had a huge savings in stocks and various instruments as well as approximately \$1.3 million equity in our home.
- 9. I had left a permanent position when our second child was born and had only worked part time and very sporadically in sitcom production over the next 12 years in order that I be available to care for our three children. Particularly as Respondent's work took him to various cities at times.
- 10. Respondent's idea for our new business was that we should start it together and I should run it while he pursued other work. Knowing that Respondent desperately needed to work in order to sustain his hard won recovery, I agreed to the idea and we worked together on the business over the following months while I also continued to be the primary caregiver to our three children.
- 11. We opened the doors of our new spa business in March of 2004. During this enormously stressful time, our relationship began to suffer dramatically. Where we had become very, very close during his protracted illness, he now became increasingly short tempered with me. I had left the spa unlocked one Sunday and I had forgotten to bring him a sandwich on occasion. Respondent's reaction to these minor incidents informed me that he was not doing well under the strain.
- 12. While we were working together to build our business, Respondent continued to pursue his own career and was working with a telephone auditing company that paid a percentage of the savings a major corporation received by the auditing and negotiating process of their phone bill carrier. The were annual billing costs were \$500,000 to well over a \$1 million on average.

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- 13. In September of 2004, Respondent told me to "go get another job." Believing that, since he had been unable to find another job, Respondent needed to run the spa in order to maintain his mental well being, I stepped aside. I continued as the president and sole shareholder of the company as I had from the very beginning until I stepped down in January of 2007.
- berate me beyond the spa into our home life. He told me I was a terrible cook, a terrible housekeeper etc. etc. I did not understand what was happening at the time and I ended up clinically depressed. I could not find reliable work in my profession as the business has changed so dramatically. As I have only an AS degree in electronics from 1977, I decided to try to be a realtor. I have been working to develop that business during the last two years.
- 15. Respondent left our home in June 2005 for three months and began a relationship with another woman that continues today. He came home in September 2005 but only with a great deal of angst and he left again in June of 2006. We continued to try to salvage our relationship.
- During all of this time, Respondent was secretive and protective about the financial performance of our business. I knew that we were taking loans on the house to feed the business and that we were forced to liquidate stocks and savings to pay our living expenses. Respondent continued to pay the bills and manage all the finances for the family, but as Respondent is a Chartered Accountant (the British equivalent for Certified Public Accountant) I thought that we and the business were still in good hands.
- 17. On December 28, 2006, at my suggestion, we sold the family residence to help relieve the \$600,000 debt the business had incurred. We had already liquidated the last \$118,000 in our stock portfolio earlier that year.

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(818) 348-6700, Fax (818) 348-096

| 18. | Respondent had been telling me all along that the business was not making any |
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| money, but I | observed that he was inuring increasingly frequent and increasingly expensive |
| expenditures v | which caused me doubt his representations. Respondent purchased an IMac and a |
| video phone f | or our daughter and sent the kids to a surf camp which cost \$2,400. He has leased a |
| new BMW an | d purchased a \$120, 000 piece of equipment for the company. He made three (3) |
| trips to Europ | e and took the children twice. He also took three shorter vacations this year to |
| Northern Cali | fornia, Colorado and to an expensive resort in Mexico. In emails he has been talking |
| about taking t | rips to South Africa and China this fall and spring. More recently he told me he was |
| might possibl | y be purchasing a house priced over one million dollars. |
| | |

19. Respondent continued to control the majority of our finances however, so it was not until September 1, 2007 that I discovered just how much our spa business was making.

Respondent's <u>accurate</u> observation - that I have recently expressed displeasure with the settlement negotiations - is based solely on the fact that the negotiations have been based on half-truths and purposefully depressed financial representations.

MY NEED FOR FINANCIAL SUPPORT

- 20. In July 2007, Respondent admitted that the business was making a bit of money now he claimed \$8,000 to \$9,000 per month. In this light, I asked that he start paying child and spousal support. In early August, after returning from a trip to France with his girlfriend, Respondent gave me the first support check of \$468. His figuring was to start at a modest \$2,400. Then he deducted half the children's school fees, half the insurance for our son's car, the kid's phones, all of my automotive expenses, health insurance and my cell phone bill.
- 21. As stated above, I have recently begun working as a Realtor, but I had only worked sporadically during the last 12 years and my education is inadequate for today's job market.

 Furthermore, the real estate market is currently depressed and a difficult market for a new realtor.
- 22. Respondent's failure to be forthcoming about the income from our business leads me to believe that I will be forced to spend money to hire a forensic accountants to conduct financial tracing. If Respondent continues to obfuscate the truth, I may be required to hire private investigators to look into hidden assets.

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| | 23. | While Respondent spends community income to hire people to work for him, |
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| expres | sly so th | at he can spend time with our children during his custodial periods, I currently lack |
| these r | esource | s. I have been cut-off from the income stream produced by our family business and I |
| am bei | ng unfa | irly penalized for it. |

- Respondent has sole control of our community business which shows a profit of 24. approximately \$27,000 per month based on the Quick Books and bank deposits I reviewed on September 1, 2007. The Court should note that the business does large volume of cash transactions. The Court should further note that that this income is not taxed in total because Respondent draws it down on the "loan" he (we) made to the company and he leaves the rest in the business until he is able to shelter it. Attached hereto, as Exhibit A, please find true and correct copy of the business' Three Year Financial Projection. The Operating Profit for 2007 is projected to be \$327,800. Divided by 12 months, that equals \$27,316.66 in monthly income.
- Attached hereto as Exhibit B is a true and correct copy of the business' Profit and 25. Loss Statements which, when I obtained them, were only current through the end of July 2007. One page two, it reflects Net Ordinary Income of \$157,437.49. That figure divided by the seven months it represents, provides for monthly income of \$21,062.48.
- Attached hereto as Exhibit C is a copy of a Dissomaster print-out based on the 26. income available for support. It reflects that Guideline Child Support payments should be \$4,831 per month. Santa Clara Spousal Support should be in the amount of \$4,675 per month.

OUR STATUS QUO CUSTODY SCHEDULE

- Since September of 2006, our two youngest children have alternated, from Friday to 27. Friday, between my home and Respondent's. Our eldest son has lived with me full time since approximately December of 2006.
- This schedule appears to work well for the children and I would like the Court to 28. formalize it. My attorney has prepared proposed Orders for the review of the Court.

MY REQUESTS OF THE COURT

- I respectfully request that the Court Order the following:
 - That the status quo custody schedule be formalized as child custody orders. a. Cancellation No. 92044697 **Exhibits - Motion for Summary Judgment** March 10, 2009

In re Marriage of Hurren

L.A.S.C. Case No. GD 040122

| b. | hat the Court Order Respondent to pay Child Support in the amount of |
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| \$4,831 | er month pending a Stipulation or Order to the contrary. |

- c. That the Court Order Respondent to pay Spousal Support in the amount of \$4,675 per month pending a Stipulation or Order to the Contrary.
- d. That the Court Order Respondent to pay my attorney fees in the amount of \$25,000 to "level the playing field" pursuant to California Family Code §§ 2030 and 3120.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this _____day of November, 2007, at Woodland Hills, California.

See Faxed Signature Attached

JANET HURREN Petitioner

Law Offices of Ronald M. Supanci

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DECLARATION OF RESPONDENT COLIN HURREN

- I, Colin Hurren, declare as follows:
- 1. I am the Respondent in the above-entitled matter. The facts contained in this Declaration are known to me of my own personal knowledge, and I am competent to testify thereto.
- 2. I submit this declaration in support of my request that this Court bifurcate the issue of enforcement of the Marital Settlement Agreement (hereinafter "MSA"), or *in the alternative*, order an alternate date of valuation for the business Skin Deep Laser Medspa.
- 3. Petitioner, Janet Hurren, filed a dissolution action on October 11, 2006. In late November of 2006, I filed my Response and request for dissolution of our marriage. In February of this year, I served Petitioner with my preliminary declaration of disclosure. On December 18, 2007, I served Petitioner with my answers to Family Law Interrogatories propounded by her, including a Schedule of Assets and Debts and an updated Income and Expense Declaration.
- 4. In late December, 2006, the Petitioner and I entered into an agreement regarding the division of our assets and debts. Petitioner assigned her interest in ACM Enterprises, Inc., DBA Skin Deep Laser Medspa (hereinafter "Medspa") to me as my sole and separate property. That assignment is attached hereto and incorporated by reference as Exhibit "A". On January 17, 2007, Petitioner and I jointly agreed to distribute our assets. Said distribution of assets, signed and dated by both Petitioner and I, is attached hereto and incorporated by reference as Exhibit "B". After the execution of said documents, and after Petitioner deposited her share of the distribution, Petitioner retained counsel and

now seeks to rescind the MSA on the ground that she did not have an attorney when she entered into the agreement.

- 5. I respectfully request the following:
- A. That this Court bifurcate the issue of enforcement of the Marital MSA, or in the alternative, order an alternate date of valuation of the business such that Medspa be valued as of June 2007, the date of separation.
- B. That this court order Petitioner to place all monies obtained from the MSA, including the proceeds from the sale of the residence, into a trust account pending the dissolution proceedings.

BIFURCATION OF THE MARITAL SETTLEMENT AGREEMENT

- 6. I request that the enforcement of the MSA attached in Exhibit "B" be heard separately because several other issues in this matter will depend on whether or not this Court finds the agreement valid. Some of the corollary issues include, but are not limited to, the value of Medspa, which Petitioner and I previously agreed was \$431,563.00, and the value of all of the marital debts and assets. If the court bifurcates the issue of enforcement of the MSA, then the determination of complex financial issues in this matter will be considerably simplified.
- 7. Should this Court decide not to bifurcate said issue, I request the alternative mentioned below.

VALUE THE BUSINESS AS OF THE DATE OF SEPARATION

8. In the alternative to bifurcating the abovementioned issue, I request that this Court value the business as of June 2006, the date of separation. Since December 2006, when Petitioner assigned her interest in Medspa to me as my separate property, I have solely been responsible for the upkeep, maintenance and financial obligations associated with running a facility of this type. Thus, I contend that the appropriate date of valuation is the date of separation. Petitioner has previously represented to this

Court that the dissolution process has been cooperative and collaborative up to this point. In the interest of reducing the fees associated with attorney's, experts, accountants and in the interest of judicial economy, I believe it is appropriate for this Court to value the business as of June 2006, the date of separation.

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PLACE FUNDS IN TRUST PENDING DISSOLUTION PROCEEDINGS

I request that this Court order Petitioner to place all monies received from the distribution of assets signed by Petitioner and attached as Exhibit "B" pending the dissolution proceedings. I make this request on the ground that, based on Petitioner's Income and Expense Declaration's, she has transferred or encumbered approximately \$420,000.00 in a mere five months.

On Petitioner's Income and Expense Declaration (hereinafter "I&E") dated July 1, 2007, Petitioner represented that she had \$465,00.00 in deposit accounts. That I&E is attached hereto and incorporated by reference as Exhibit "C". This amount reflects Petitioner's share of the distribution of assets found in Exhibit "B". In Petitioner's updated I&E dated November 29, 2007, Petitioner represents that she has only \$44,100.00 in deposit accounts. That Income and Expense Declaration is attached hereto and incorporated by reference as Exhibit "D". I, like any reasonable person, was extremely alarmed at the \$420,000.00 disparity between the July and November I&ED's.

Because of the aforementioned disparity represented on Petitioner's I&E

Declarations and Petitioner's attempt to rescind the MSA, I believe that this Court
should order Petitioner to place any remaining monies remaining from the MSA,
including the proceeds from the sale of the family residence, in a trust account pending
the dissolution proceedings. Furthermore, transferring or encumbering such a
substantial amount of money pending the dissolution proceedings is likely a violation of
the Automatic Restraining Orders that both Petitioner and I are subject to.

CONCLUSION

In summation, I respectfully request that this Court bifurcate the issue of enforcement of the MSA, or *in the alternative*, value the business as of the date of separation. In addition, I request that this Court order Petitioner to place any monies remaining from the MSA, including proceeds from the sale of the family residence, in a trust account pending the dissolution proceedings.

I hereby declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this <u>20</u> day of December 2007, at Pasadena, California.

Respondent, Coun Hurren

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DECLARATION OF COLIN HURREN

- I, Colin Hurren, declare as follows:
- 1. I am the Respondent in the above-entitled matter. The facts contained in this Declaration are known to me of my own personal knowledge, and I am competent to testify thereto.
- 2. I submit this declaration in response to Petitioner's Order to Show Cause for child custody, child support, attorney fees and costs, visitation, and spousal support.
- 3. I consent to Petitioner's proposed visitation schedule wherein Chase and Mackenzie spend alternate weeks with each parent, with exchanges to take place Friday after school.
 - 4. I respectfully request the following relief from this Court:
- a. That Alexander continue to live with Petitioner, and once I acquire a residence with additional space, I ask that Alexander visit with me according to the same visitation schedule proposed for our other two children i.e., alternate weeks with each parent, with exchanges to take place Friday after school.
- b. That the court DENY Petitioner's request for child support, spousal support, and attorney's fees because the proposed figures are all based on a financial projection of the Medspa that is in no way indicative of my salary.
- c. That the court order Petitioner to pay my attorney's fees in the amount of \$1,000 for the costs associated with responding to Petitioner's Order to Show Cause.

BACKGROUND

5. Petitioner and I were married on 12/29/89 and separated on 06/23/06. There are three minor children of this marriage, namely Alexander

Hurren, born 1/1/91; Chase Hurren, born 1/9/93; and Mackenzie Hurren, born 7/17/94.

- 6. Petitioner and I opened the Skin Deep Laser Medspa (hereinafter "Medspa") in February 2004. However, it was quickly apparent that Petitioner was not fully dedicated to the business. After receiving several complaints about Petitioner's work ethic, I told Petitioner that it would be best if she attempted to generate income for the family outside of the Medspa. This was the best thing for our family both in terms of finances and in terms of alleviating the tension between Petitioner and I.
- 7. Petitioner is a very intelligent person demonstrated by the fact that she held a very technical engineering position with ABC Television for many years. However, rather than pursuing a career in television production, Petitioner decided to become a real estate agent and has been working as one for the last 2 ½ years. Our marriage suffered significantly after I asked Petitioner to earn a steady income so that we can begin to pay off the overwhelming debt we had incurred. Any attempt on my part to persuade Petitioner to seek a steady income turned into abusive rants on Petitioner's part.
- 8. In late December, 2006, the Petitioner and I entered into an agreement regarding the division of our assets and debts. We sold our house and divided the proceeds. Petitioner assigned her interest in ACM Enterprises, Inc., DBA Skin Deep Laser Medspa to me as my sole and separate property. That assignment is attached hereto and incorporated by reference as Exhibit "A". On January 17, 2007, Petitioner and I jointly agreed to distribute our assets. Said distribution of assets, signed and dated by both Petitioner and I, is attached hereto and incorporated by reference as Exhibit "B". Pursuant to the agreement, Petitioner received most of the proceeds from the sale of the residence which resulted in her having bank balances in the amount of \$506,321 Petitioner signed these agreements knowingly and voluntarily.

CUSTODY AND VISITATION

- 9. Petitioner requests that the two youngest children, namely Chase and Mackenzie, spend alternate weeks with each parent, with exchanges to take place Friday after school. I consent to Petitioner's proposed visitation schedule with respect to Chase and Mackenzie.
- 10. Petitioner requests that our 17-year-old son, namely Alexander, live full time with her. This is the current arrangement because my residence is not big enough for all three of our children. I hope to obtain a residence with additional space so that Alexander can visit with me according to the same visitation schedule as his siblings. Thus, I respectfully request that this court allow Alexander to live with Petitioner, and once I acquire a residence with additional space, I ask that Alexander visit with me according to the same visitation schedule proposed for our other two children i.e., alternate weeks with each parent, with exchanges to take place Friday after school.

PETITIONER'S ALLEGATIONS REGARDING MY INCOME ARE GROSSLY INACCURATE

- 11. First and foremost I would like to stress that I am in no way opposed to providing support for my family. However, Petitioner's request for \$9,546 based on my supposed \$27,000 monthly salary is totally outrageous. Petitioner contends that the \$27,000 figure is based on a report from Quick Books and bank deposits. However, as the Court can clearly see from Petitioner's Exhibit A, that document is not a Quick Books report. It is merely a financial projection of the business that was prepared back in 2005. The use of a financial projection is an invalid basis on which to set my income. In fact, due to the financial position of the Medspa, I have only been able to take a salary of \$6,000 for the whole year.
- 12. Petitioner's Exhibit A shows a projected profit of \$237,500 for 2006. I am appalled that Petitioner would make such contentions under penalty of perjury when she knows that the actual profit for 2006 was only \$47,400. I would ask the court to refer to Kenneth Walheim's declaration which will be made available for

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the court's review at the hearing. Mr. Walheim is a respected forensic accountant who was jointly retained by the Petitioner and I.

- 13. Petitioner claims that I have an income of \$27,000. Petitioner points out my background in accounting, however even with a limited knowledge in accounting one would know that it is not a valid assumption that operating profit for a business can be taken as salary. There are many other factors that must be considered before any compensation can be paid. As mentioned above, in 2007 I took a mere \$6,000 in salary. I have been using the proceeds from the sale of the house to cover all my expenditures, child support, and spousal support.
- 14. It is based on this erroneous figure that Petitioner seeks \$25,000 in attorney fees to "level the playing field". However, I hope I have demonstrated to this Court that the amounts of child support, spousal support, and attorney's fees requested are based on an improper number. Furthermore, Petitioner's most recent Schedule of Assets and Debts indicates that she has \$454,550 in cash and deposit accounts.
- 15. Petitioner's own actions have made the dissolution process more difficult and expensive. First, Petitioner seeks to rescind the Marital Settlement Agreement incorporated in Exhibits A and B. Second, after Petitioner and I worked on several versions of a stipulated judgment, she refused to sign it. Third, Petitioner has unexplainably changed lawyers on three occasions. Petitioner initially retained Meredith Manker, then Kathleen O'Conner, and finally Ronald Supanic. Unfortunately, Petitioner's current lawyer, Mr. Supanic, has seemingly advised Petitioner to take a very adversarial approach rather than the collaborative approach we were previously taking.
- 16. In light of the \$454,550 that Petitioner holds in cash and deposit accounts, I respectfully request that this court DENY Petitioner's request for \$25,000 in attorney's fees.
- 17. Petitioner contends that I have kept her in the dark about our finances. However, Petitioner attempts to come across as naïve and vulnerable are fallacious demonstrated by the fact that Petitioner received the financial statements for 2006 and signed the tax returns for that year. Moreover, Petitioner





has a great deal of knowledge of the type of business we owned together. Petitioner's brother owns a Skin Deep Laser Medspa in Kansas City. Petitioner speaks to her brother on a regular basis and has independent first hand knowledge of the cash requirements of this type of business. Thus, Petitioner knew that her contentions were erroneous and a blatant misrepresentation to this Court.

18. I respectfully ask this court to DENY petitioner's request for child and spousal support in the amount of \$9,546 based on a financial projection that does not reflect my true income. To say that this is a "Quick Books Report" is to mislead the court into believing that there is a degree of accuracy and credibility to the calculation. It is for this reason that I ask this Court to order Petitioner to pay my attorney's fees in the amount of \$1,000 for the costs associated with responding to this OSC. As I stated earlier, Petitioner's contention that I make \$27,000 per month is a blatant misrepresentation to the court.

PETITIONER UNDERSTATES HER ASSETS AND THE AMOUNT OF SUPPORT I HAVE PROVIDED SINCE THE DATE OF SEPARATION

- 19. Since the date of separation in June 2006, I have been responsible for virtually all of the family expenses. From January to July 2007, I paid for Petitioner's car insurance, medical insurance, cell phone and house keeper totaling \$925 per month. I also provide Petitioner with \$1,620 per month in spousal support. I have also been responsible for paying nearly all of the children's expenses and leisure including school fees, clothes, books, extracurricular activities, and vacations totaling \$4,500 per month. I was responsible for organizing the children's entire summer including summer school programs at Westridge, Mayfield, St. Francis, Pasadena Junior theater and surf camp. Although Petitioner claims that she is paying school fees of \$950 per month, I am the one has paid them all.
- 20. Petitioner admits in her declaration that I informed her that the Medspa was taking a loss. Petitioner points to some of my expenditures and implies that I misled her about the business' financial standing. It is unfortunate that I have to defend myself for monies spent on our children. Some of the items



referenced by Petitioner were paid for with Christmas and birthday money the children saved over time. In an effort to facilitate our daughter's learning, who has Attention Deficit Disorder, both Petitioner and I cooperated in a ten week program wherein our daughter earned money to buy the MAC Book. Petitioner was actively involved and supported this program.

21. Petitioner takes issue with the fact that I have traveled to Europe with the children. I would ask the court to note that I was born in London, England and I thought it would be beneficial for the children to visit their family in Europe. Petitioner implies that I am an extravagant spender, however I have no plans to take trips to China and South Africa or to buy an extravagant home.

CONCLUSION

- 22. In summation, I consent to Petitioner's proposed visitation schedule wherein Chase and Mackenzie spend alternate weeks with each parent, with exchanges to take place Friday after school. I respectfully request that this court allow Alexander to live with Petitioner, and once I acquire a residence with additional space, I ask that Alexander visit with me according to the same visitation schedule proposed for our other two children i.e., alternate weeks with each parent, with exchanges to take place Friday after school.
- 23. In addition, I respectfully request that the court DENY Petitioner's request for child support, spousal support, and attorney's fees because the proposed figures are all based on a financial projection of the Medspa that is in no way indicative of my salary.

I hereby declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this 3rd day of January 2008, at Pasadena, California.

Respondent, Colin Hurren

Donald P. Schweitzer
LAW OFFICE OF DONALD P. SCHWEITZER

201 S. Lake Avenue Suite 700 Pasadena, California 91101

(626) 683-8113

State Bar Number: 166412

Attorney for Respondent,

7 || Colin Hurren

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SUPERIOR COURT

SUPERIOR COURT FOR THE STATE OF CALIFORNIA, NORTHEAST DISTRICT

COUNTY OF LOS ANGELES

In Re the Marriage of:

| CASC Case No. GD041694
| REPLY DECLARATION OF COLIN HURREN
| COLIN HUR

DECLARATION OF COLIN HURREN

- I, Colin Hurren, declare as follows:
- 1. I am the Respondent in the above-entitled matter. The facts contained in this Declaration are known to me of my own personal knowledge, and I am competent to testify thereto.
- 2. I submit this REPLY declaration to refute the cash flow analysis prepared by Petitioner's CPA, namely Susan Carlisle.

INCOME

- 3. In 2007, I took a salary of \$6,000 from Skin Deep Laser Medspa (hereinafter "Medspa"). Of this amount, I put \$4,000 back into the business. Petitioner is fully aware that I am currently living off the proceeds from the sale of the family residence.
- 4. I would ask this court to note that I have provided Petitioner with extensive information about my personal expenditures and source of funds. I have made the business computers available for Petitioner's inspection. Just recently, I provided Petitioner's attorney with my supplemental answers to a request for documents. I even provided opposing counsel with a memory stick containing the financial data stored in Quick Books software.
- 5. Petitioner alleges that some of the financial information is "erroneous". However, the financial statements were clearly marked as being prepared on an <u>accrual basis</u>; there is nothing "erroneous" about them. This is general practice in managing and regulating a business. Kenneth Walheim, a respected forensic accountant jointly retained in this matter, will make the necessary adjustments to the year end financials. These adjustments will reflect the proper cash basis used for tax return purposes.

6. Petitioner's CPA inaccurately uses a financial projection without knowing the basis on which it was prepared. To say that the profit figure of the business was \$237,500 for 2006 is absurd, particularly because the financial statements and the tax returns for that year were handed over to Petitioner's counsel in the discovery process. Taking said financial statements and tax returns into account shows that the profit before depreciation was under \$50,000.

7. I strongly disagree with the evaluation prepared by Petitioner's CPA and I respectfully request that this court also consider the evaluation conducted by Kenneth Walheim who will be available to testify at the hearing on January 22, 2008.

I hereby declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this 14th day of January 2007, at Pasadena, California.

Colin Hurren Declarant

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Donald P. Schweitzer
LAW OFFICES OF DONALD P. SCHWEITZER
201 S. Lake Avenue, Suite 700
Pasadena, CA 91101
State Bar Number: 166412
(626) 683-8113

FILED

LOS ANGELES SUPERIOR COURT

JAN 18 ZUUD

JOHN A. CLARKE, CLERK BY S. VALENZUELA, DEPUTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES, NORTHEAST DISTRICT

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In re the Marriage of:

Janet Hurren,

Petitioner,

and

Colin Hurren,

Respondent

Case No.: GD 040122

Declaration of Kenneth Walheim, CPA

Cancellation No. 92044697
Exhibits - Motion for Summary Judgment
Declaration of Kenneth Walheim, CPA
March 10, 2009
Page 118

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DECLARATION OF KENNETH WALHEIM CPA ACCOUNTANT FOR RESPONDENT

I, KENNETH WALHEIM, declare that I am familiar with the matters in this case and that if called upon to testify I could competently testify and that this declaration constitutes my direct testimony in this matter.

- 1. I was engaged by Respondent's attorney in December 2007 to analyze the community business "Skin Deep" and determine the value of the business, the current cash flow from the business and the life style during the marriage of the Hurren household.
- 2. I have testified in the Superior Court of San Diego, Orange, Ventura and Los Angeles Counties over 250 times during the last 21 years regarding business valuation, cash available, tracings, Moore/Marsden and other accounting matters related to family law, other civil litigation and criminal matters as a qualified expert witness. Attached is a copy of my resume as Exhibit K.

In preparation of this declaration I have interviewed Colin Hurren four times, have been to the business twice, have had an employee of mine perform a test of transactions where she tested deposits disbursements and other items in the books to basic documents to determine that the underlying documents were reflected in the transactions in the books of the business. In addition, I have reviewed the daily sales reports, inspected random transactions for explanations of what was involved at the business and have reviewed select documents and Court filings in this case.

3. ACM Enterprises Inc., was founded in 1991. Petitioner was correct in asserting that

 4. In 2004 Colin Hurren formed "Skin Deep" and used the ACM Enterprises Inc.corporate shell to house the business. Briefly stated the purpose of the business venture was to

form a health business specializing in laser and related procedures to enhance the beauty of

she had all of the stock in her name 13 years before the present business - "Skin Deep" was

patients skin.

5. A location was selected, the pre opening advance work was done, contacts with the required health care professionals were obtained to meet professional requirements for the business and the doors opened in 2004. Since then, Respondent has been developing a patient base by advertising and other marketing as well as developing a relationship with the community (word of mouth). Sales have grown along with expenses from 2004 to the present.

ACCOUNTING METHOD

- 6. The company uses the cash method of accounting. This method recognizes income when money is received and recognizes expenses when paid. This method is simple and in most cases approximates the real income of the business and gives a good approximation of the cash available for support.
 - 7. There are several major exceptions to the use of this method.
- A) When money is received and there is an obligation to pay it back or perform significant future services before the money is earned, borrowed funds.
- B) when expenses are incurred with borrowed money loans or on credit cards and are not booked until paid, borrowed funds.

Page 2 of 7

| 8. From the inception of the business to the end of 2005, the business received \$91,136 |
|---|
| for future work which was recognized as sales on the tax return but which had not been earned |
| (deposit for future work). During 2006 the deferred income increased an additional \$14,898 and |
| increased an additional \$54,638 in 2007. At the end of 2007 there is \$160,672 of deferred |
| income which for tax purposes has been recognized as income but which is owed to the patients |
| and has not been earned at this time. |

- 9. In my report on Schedules 2-1 through 2-3 I have removed the deferred income from the cash available for support. Money received from loans does not constitute income to be included in cash available for support.
- 10. I have reviewed the outstanding bills at the end of the year and note that they increased over the prior year. "Skin Deep" has relied upon the increase in the accounts payable to stay in business. The business has borrowed the additional expenses incurred from its creditors. I have adjusted the cash flow for this additional borrowing to the business of \$2,986 for 2007.

DEPRECIATION

- 11. I have reviewed the declaration of Susan Carlisle CPA regarding the issue of depreciation add back. She has added back all of the depreciation for PERSONAL PROPERTY USED IN THE BUSINESS TO GENERATE THE DAY TO DAY INCOME OF THE BUSINESS utilizing Asfaw v Woldberhan (2007), Vsl spp. 4th, 1407. The case in question was concerning using *Real Property* and not using *Personal Property* which was not addressed in that case.
- 12. Following Garrett Dailey's comments (Attorney's Brief Case) concerning the case, I have prepared an adjustment to the cash flow of the business where all depreciation is disallowed and the <u>personal property</u> is <u>expensed when purchased</u> (see Schedule 2-1) based on this analysis, Respondents cash flow was \$97 a month.

19.

- 13. Using economic depreciation and using a 7 year life for all equipment, I have shown the cash flow from the business to be \$4,182 a month (see Schedule 2-2).
- 14. The depreciation on the books was \$84,000 for the year. Adjusting that depreciation to \$91,189 would result in \$7,599 a month cash flow to Respondent (see Schedule 2-3).
- 15. Exhibit E is the balance sheet of the business at December 31, 2004. Exhibit F is the balance sheet of the business at December 31, 2005. Exhibit G is the balance sheet of the business at December 31, 2006. Exhibit H is the balance sheet of the business at December 31, 2007. As can be seen from Exhibit H, after remembering that there is a \$160,672 deferred income liability that is not reflected on the balance sheet, the business does not have the ability to borrow any significant sums of money or pay out to the owner on a cash flow basis (not for taxes) any significant salary at this time.

RESPONDENT'S CASH FROM SALE OF FAMILY RESIDENCE

16. Ms. Carlisle has suggested that Respondent could borrow the money to purchase his equipment every year and thus the purchase price of the equipment should not be considered in the calculation of cash available for support. Mr. Hurren has paid his wife for advance property settlement \$210,000 since June of 2006. In addition, he has subsidized the business and covered the losses the business has incurred from 2004 to the present. Although the community has advanced some money to purchase the business, there increase in equipment purchases and the cash flow losses the business has incurred along with the living expenses Mr. Hurren has incurred for himself and the \$2,400 a month he has paid for wife and \$4,500 has paid a month for the children has exhausted his share of the money resulting from the sale of the family residence. In addition there are restrictions on the equipment leasing or other alternative ways of acquiring lasers by the manufacturer. In order to lease, etc. you must be an MD.

If the equipment were financed, the payments for the financing would be an adjustment to the cash available for support from the business- if you must make a payment to purchase a

machine which is used in the business in order to collect revenue it becomes a necessary expense.

17. When you go to buy \$100,000 laser, you need to show that you are producing income or have a strong balance sheet to borrow money. Neither Respondent or "Skin Deep" did have a strong balance sheet or were producing net income. The business had to pay for the equipment instead of borrowing.

WIFE'S CASH FLOW

18. Wife has spent the last two and half years becoming a "real estate agent." I have seen no data to show that she has earned any money at this vocation. I have been informed that she was in studio engineering for television but that her skills are old and she has indicated obsolete. I have assumed that she can make \$9.00 per hour have ascribed \$18,000 a year earnings to her. I note that you can flip burgers at "In and Out" for this amount starting plus health benefits.

19. Wife received her share of the proceeds from the sale of the house which was approximately \$400,000. She has further received \$210,000 from husband post separation for reasons which are not pertinent to this declaration. I have utilized a 5% rate of return which is below the average at Fidelity.com for \$600,000 which is \$30,000 a year taxable interest income.

HUSBAND'S CASH FLOW

20. For husband's cash flow I have used perquisites based on Ms. Carlisle's report of \$2,051 a year and have utilized \$300 a month interest income. I note that the funds earning interest on a future going basis will not be enough to generate this amount of income. I have utilized 33% time sharing for husband in the process of preparing Dissomaster calculations.

Page 5 of 7

SUPPORT CALCULATIONS

- 21. Schedule 3-1 is the Dissomaster Report with the assets being expenses in the year of purchase. Although this is the logical result of deducting necessary expenditures of the business in the year paid, it results in a result which understates the proper support. Based on this method, wife owes husband \$800 a month child support.
- 22. Schedule 3-2 is the Dissomaster Report with the assets of the business being depreciated over 7 years. These assets consist of computers, furniture and laser equipment and are used by the business to generate everyday revenue- if you don't have the laser, you can't bill for a laser procedure. Based on this method, wife owes husband \$526 a month.
- 23. Schedule 3-3 is the Dissomaster Report with depreciation reduced from \$84,000 to \$34,000. Exhibit J is a schedule which shows a reconciliation of Respondent's personal spending both for himself, the children and for his wife. Based on this schedule, approximately \$7,600 a month was spent by Respondent on himself. Because of the use of debt and borrowings in this case, this equates to what Respondent is spending for his personal life style which is what his children are participating in. Based on this amount of income, Respondent should be paying child support of \$1,315 a month and \$151 a month in spousal support (See Schedule 3-4) for a total of \$1,466 a month.

I declare under penalty of perjury under the laws of the State of California that the above statements are true.

Signed this 17th day of January, 2008 at Sherman Oaks, California.

KENNETH WALHEIM CPA

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January through December 2004

| | Jan - Dec 04 |
|---|-----------------------|
| a. II. and Income/Evanors | |
| Ordinary income/Expense income | |
| Revenue | 462,605.96 |
| Total Income | 462,605.96 |
| | |
| Expense Auto - Fuel | 2,340.51 |
| Auto Expense | 193.00 |
| Bank Charges | 1,300.63 |
| Car Leases | 9,793.11 3,300.00 |
| Consulting | 3,500.55 |
| Consumables | 29,855.00 |
| Botox Cosmoderm | 1,536.48 |
| Cosmoplast | 1,377.25 |
| Estertician supplies | 4,692.45 |
| Levulan | 4,957.20 |
| Medical Supplies | 9,354.77 12,150.00 |
| Restylane | 34,481.93 |
| Skin Care Consumables - Other | -14,900.00 |
| | 83,505.08 |
| Total Consumables | • |
| Donations | 150.88 |
| Dr Berger | 400.00 |
| Consultations Consulting Fee | 15,52 7.25 |
| Profit Participation | 2,683.26 |
| Total Dr Berger | 18,610.51 |
| | • |
| Equipment Expense Equipment Lease | 953.36 |
| Total Equipment Expense | 953.36 |
| Facility Improvements | |
| Construction | 35,495.72 |
| Designer | 2,311.71 4,929.00 |
| Electrician | -42,736.43 |
| Facility improvements - Other | 0.00 |
| Total Facility Improvements | 0.00 |
| Insurance | 2,782.29 |
| General Liability | 17.563.79 |
| Mai Practice Workmans Comp | 13,901.09 |
| Insurance - Other | 4,196.60 |
| Total Insurance | 38,443.77 |
| Interest Expense | 10,448.16 |
| Marketing | |
| Collateral | 18,436.68 |
| Creative | 28,022.28 |
| Direct Mail | 10,876.68 8,165.15 |
| Events | 9,801.95 |
| Internet Newspaper Ad - Boulevard | 5,073.50 |
| Newspaper Ad - Bodievard Newspaper Ad - Celebrity | 500.00 |
| Newspaper Ad - Oslebitty Newspaper Ad - Pasadena Star | 7,101.00 |
| Newspaper Ad - Pasadena Weekly | 36,115.81 |
| Newspaper Ad - St Joseph | 500.00 |
| Newspaper Ad - Sun Valley | 4,705.34 |
| Newspaper Ad - Theatre | 350.00 6,000.00 |
| Newspaper Ad - Tolucan Times | 10,304.00 |
| Newspaper Ad San Marino Tribune Subscriptions | 2,788.50 |
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Page 1

EX F

January through December 2004

| | Jan - Dec 04 |
|---|--|
| Vons Signs Marketing - Other | 14,448.00 7,869.28 |
| Total Marketing | 171,058.17 |
| Meals Miscellaneous | 3,744.62 2,545.29 |
| Office Alarm System Credit Card Processing Fee Linen Service Postage/Shipping Rent Telephone Office - Other | 381.70 3,234.82 2,838.82 700.90 55,997.49 7,425.98 21,672.59 |
| Total Office | 92,252.30 |
| Professional Fees Accounting Legal | 1,825.00 50.00 |
| Total Professional Fees | 1,875.00 |
| Salaries Health Benefits Lisa P Loan Payroll Processing Fee Salaries - Other Total Salaries | 6,118.65 0.00 415.15 196,822.82 203,356.62 |
| Sales Tax State Tax Travel Uniforms | 4,831.90 195.00 388.83 114.91 |
| Total Expense | 649,400.75 |
| Net Ordinary Income | -186,794.79 |
| Other Income/Expense Other Expense Depreciation | 30,159.00 |
| Total Other Expense | 30,159.00 |
| Net Other Income | -30,159.00 |
| Net Income | -216,953.79 |

January through December 2005

| | Jan - Dec 05 |
|-------------------------------------|----------------------|
| Ordinary Income/Expense Income | |
| Revenue | 836,663.81 |
| Total Income | 836,683.81 |
| Expense | |
| Auto - Fuel | 2,057.82 |
| Auto Expense | 218.00 |
| Bank Charges | 1,950,43 |
| Car Leases | 7,065.40 1,053.82 |
| Consulting | 1,003.02 |
| Consumables | 50,704.00 |
| Botox | 10,639.01 |
| Cosmelan Estertician supplies | 4,551.94 |
| Levulan | 9,461.04 |
| Medical Supplies | 9,573.51 |
| Restylane | 21,356.40 |
| Skin Care | 69,741,50 |
| Total Consumables | 176,027,40 |
| Dr Berger | |
| Consulting Fee | 7,425.00 |
| Profit Participation | 1,545.79 |
| Total Dr Berger | 8,970.79 |
| Equipment Expense Equipment Lease | 1,787.64 |
| Total Equipment Expense | 1,787.64 |
| Facility Improvements | • |
| Construction | 822.85 |
| Electrician | 2,144.00 |
| Exterior Signs | 4,341.46 |
| Facility Improvements - Other | -7,207.65 |
| Total Facility Improvements | 100.66 |
| Insurance | |
| General Liability | 3,246.74 |
| Mai Practice | 18,196.52 |
| Workmans Comp | 14,640.18 |
| Total insurance | 36,083.44 |
| Interest Expense | 31,834.16 |
| Marketing | 10,030.64 |
| Collateral | 11,222.39 |
| Creative | 7,206.58 |
| Events | 9,852.74 |
| Internet Newspaper-Junior League | 400.00 |
| Newspaper Ad - Pasadena Star | 3.128.75 |
| Newspaper Ad - Pasadena Weekly | 33,629.08 |
| PR Consultant | 4,500.00 |
| Subscriptions | 3,447.12 |
| Vons Signs | -2,893.75 |
| Yellow Pages | 2,000.00 |
| Marketing - Other | 335.27 |
| Total Marketing | 82,858.82 |
| Meals | 0.00 |
| Miscellaneous | 0.00 |
| | |

MX B

Page 1

January through December 2005

| Alarm System Business Licence Credit Card Processing Fee Linen Service Postage/Shipping Rent Telephone Office - Other Total Office Total Professional Fees Accounting Legal Total Professional Fees Health Benefits Lisa P Loan Payroll Processing Fee 1,211.03 Salaries Total Salaries Salaries Total Salaries Total Salaries Salaries Total Salaries Total Salaries Total Salaries Salaries Total Salaries Salaries Total Salaries Total Salaries Salaries Total Salaries Total Salaries Salaries Total S | 5.37 3.99 0.25 7.03 1.73 1.41 3.37 95,430.59 0.00 2.50 8,162.50 | 457.44 375.37 13,113.99 7,970.25 497.03 49,151.73 8,521.41 15,343.37 95,430 2,800.00 5,362.50 | Alarm System Business Licence Credit Card Processing Fee Linen Service Postage/Shipping Rent Telephone Office - Other Total Office Professional Fees Accounting Legal |
|--|---|---|---|
| Alarm System | 5.37 3.99 0.25 7.03 1.73 1.41 3.37 95,430.59 0.00 2.50 8,162.50 | 457.44 375.37 13,113.99 7,970.25 497.03 49,151.73 8,521.41 15,343.37 95,430 2,800.00 5,362.50 | Alarm System Business Licence Credit Card Processing Fee Linen Service Postage/Shipping Rent Telephone Office - Other Total Office Professional Fees Accounting Legal |
| Business Licence 375.37 Credit Card Processing Fee 13,113.99 Linen Service 7,970.25 Postage/Shipping 497.03 Rent 49,151.73 Telephone 8,521.41 Office - Other 15,343.37 Total Office 95,436 Professional Fees 2,800.00 Legal 5,362.50 Total Professional Fees 8,163 Salaries 49,151.03 Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,733 Sales Tax 7,598 State Tax 2,176 Travel 3,362 Uniforms 1,757 | 5.37 3.99 0.25 7.03 1.73 1.41 3.37 95,430.59 0.00 2.50 8,162.50 | 375.37 13,113.99 7,970.25 497.03 49,151.73 8,521.41 15,343.37 95,430 2,800.00 5,362.50 | Business Licence Credit Card Processing Fee Linen Service Postage/Shipping Rent Telephone Office - Other Total Office Professional Fees Accounting Legal |
| Credit Card Processing Fee 13,113.99 Linen Service 7,970.25 Postage/Shipping 497.03 Rent 49,151.73 Telephone 8,521.41 Office - Other 15,343.37 Total Office 95,430 Professional Fees 2,800.00 Legal 5,362.50 Total Professional Fees 8,163 Salaries 49,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,732 Sales Tax 7,596 State Tax 2,176 Travel 3,362 Uniforms 1,757 | 3.99 0.25 7.03 1.73 1.41 3.37 95,430.59 0.00 2.50 8,162.50 | 13,113.99 7,970.25 497.03 49,151.73 8,521.41 15,343.37 95,430 2,800.00 5,362.50 | Credit Card Processing Fee Linen Service Postage/Shipping Rent Telephone Office - Other Total Office Professional Fees Accounting Legal |
| Linen Service 7,970.25 Postage/Shipping 497.03 Rent 49,151.73 Telephone 8,521.41 Office - Other 15,343.37 Total Office 95,436 Professional Fees 2,800.00 Legal 5,362.50 Total Professional Fees 8,163 Salaries 49,400.00 Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,732 Sales Tax 7,596 State Tax 2,176 Travel 3,362 Uniforms 1,757 | 0.25 7.03 1.73 1.41 3.37 95,430.59 0.00 2.50 8,162.50 | 7,970.25 497.03 49,151.73 8,521.41 15,343.37 95,430 2,800.00 5,362.50 | Linen Service Postage/Shipping Rent Telephone Office - Other Total Office Professional Fees Accounting Legal |
| Postage/Shipping 497.03 Rent 49,151.73 Telephone 8,521.41 Office - Other 15,343.37 Total Office 95,436 Professional Fees 2,800.00 Legal 5,362.50 Total Professional Fees 8,163 Salaries Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,733 Sales Tax 7,598 State Tax 2,176 Travel 3,363 Uniforms 1,757 | 7.03 1.73 1.41 3.37 95,430.59 0.00 2.50 8,162.50 | 497.03 49,151.73 8,521.41 15,343.37 95,430 2,800.00 5,362.50 | Rent Telephone Office - Other Total Office Professional Fees Accounting Legal |
| Telephone 8,521.41 Office - Other 15,343.37 Total Office 95,430 Professional Fees 2,800.00 Legal 5,362.50 Total Professional Fees 8,163 Salaries Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,733 Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | 1.41 3.37 95,430.59 0.00 2.50 8,162.50 | 8,521.41 15,343.37 95,430 2,800.00 5,362.50 | Telephone Office - Other Total Office Professional Fees Accounting Legal |
| Office - Other 15,343.37 Total Office 95,436 Professional Fees 2,800.00 Legal 5,362.50 Total Professional Fees 8,163 Salaries Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,733 Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | 3.37 95,430.59 0.00 2.50 8,162.50 | 15,343.37 95,430 2,800.00 5,362.50 | Office - Other Total Office Professional Fees Accounting Legal |
| Office - Other 15,343.37 Total Office 95,430 Professional Fees 2,800.00 Legal 5,362.50 Total Professional Fees 8,160 Salaries Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,730 Sales Tax 7,598 State Tax 2,176 Travel 3,360 Uniforms 1,757 | 3.37 95,430.59 0.00 2.50 8,162.50 | 15,343.37 95,430 2,800.00 5,362.50 | Total Office Professional Fees Accounting Legal |
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| Accounting 2,800.00 Legal 5,362.50 Total Professional Fees 8,163 Salaries 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,733 Sales Tax 7,598 State Tax 2,176 Travel 3,363 Uniforms 1,757 | 8,162.50 8.45 | 5,362.50 | Accounting Legal |
| Legal 5,362.50 Total Professional Fees 8,163 Salaries 4,163 Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,733 Sales Tax 7,598 State Tax 2,176 Travel 3,362 Uniforms 1,757 | 8,162.50 8.45 | 5,362.50 | Legal |
| Total Professional Fees 8,163 Salaries Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,733 Sales Tax 7,598 State Tax 2,176 Travel 3,362 Uniforms 1,757 | 8,162.50 3.45 | | · · · · · · · · · · · · · · · · · · · |
| Salaries 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,732 Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | 3.45 | 8,162 | ! |
| Health Benefits 22,808.45 Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,732 Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | | | Total Professional Fees |
| Lisa P Loan 20,650.00 Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,732 Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | | | |
| Payroll Processing Fee 1,211.03 Salaries - Other 314,063.23 Total Salaries 358,732 Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | 0.00 | 22,808.45 | |
| Salaries - Other 314,063.23 Total Salaries 358,732 Sales Tax 7,596 State Tax 2,176 Travel 3,382 Uniforms 1,757 | | | |
| Total Salaries 358,732 Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | | | |
| Sales Tax 7,598 State Tax 2,176 Travel 3,382 Uniforms 1,757 | .23 | 314,063.23 | Salaries - Other |
| State Tax 2,176 Travel 3,382 Uniforms 1,757 | 8,732.71 | 358,732 | Total Salaries |
| Travel 3,382 Uniforms 1,757 | 7,599.00 | | |
| Uniforms 1,757 | 2,176.00 | | * ·- · · · · · · · · · · · · · · · · · · |
| *************************************** | 3,382.06 | | *** — * ** · |
| | 1,757.00 | 1,757 | Uniforms |
| Total Expense 827,248 | 7,248.24 | 827,248 | Total Expense |
| Net Ordinary Income 9,415 | 9,415.57 | 9,415 | Net Ordinary Income |
| Other Income/Expense | | | Other Income/Expense |
| Other Expense | | | |
| 7 | 7.092.00 | 97 092 | |
| | 3,551.95 | | |
| | | | • • |
| Total Other Expense 100,643 | 0,643.95 | 100,643 | Total Other Expense |
| Net Other Income -100,643 | 0,643.95 | -100,643 | Net Other Income |
| Net Income -91,228 | 1,228.38 | -91,228 | |

ag sin

January through December 2006

| | Jan - Dec 06 |
|---|-----------------------|
| dinary income/Expense | |
| Income | • |
| Revenue | |
| Consulting Fees | 18,500.00 |
| Revenue - Other | 1,002,365.79 |
| Total Revenue | 1,020,865.79 |
| Total Income | 1,020,865.79 |
| Expense | |
| Auto - Fuel | 2,034.10 |
| Bank Charges | 894.0€ |
| Car Leases | 6,686.48 |
| Consulting | 1,525.00 |
| Consumables | |
| Botox | 65,542.00 |
| Cosmelan | 8,914.00 |
| Estertician supplies | 3,044.19 |
| Levulan | 7,685.38 |
| Medical Supplies | 11,992.58 |
| Radiesse | 905.00 |
| Restylane | 36,154.93 |
| Skin Care | 100,121.76 |
| Total Consumables | 234,359.84 |
| Donations Dr Berger | 348.00 |
| Consultations | 1,740.00 |
| Total Dr Berger | 1,740.00 |
| Equipment Expense | |
| Equipment Lease | 1,833.38 |
| Equipment Warranty | 12,510.00 |
| Equipment Expense - Other | 135.00 |
| Total Equipment Expense | 14,478.38 |
| Insurance | |
| General Liability | 2,156.66 |
| Mal Practice | 16,271.78 |
| Workmans Comp | 4,135.31 |
| Total Insurance | 22,563.75 |
| Interest Expense | 33,364.59 |
| Marketing | 40.000.00 |
| Collateral | 18,923.80 |
| Creative | 13,745.25 |
| Direct Mail | 2,419.99 |
| Events | 1,064.00 |
| Internet | 3,811.75 |
| Marketing Newsletter | 2,510.00 |
| News Paper Ad-Pasadena Symphony | 1,000.00 |
| Newspaper Ad - Pasadena Weekiy | 13,860.21 752.00 |
| Newspaper Ad - Sun Valley NewspaperAd-NewBeauty | |
| NewspaperAd-NewBeauty Pasadena Playhouse | 3,652.38 10,000.00 |
| Subscriptions | 4,345.91 |
| Yellow Pages | 1,000.00 |
| | |
| Total Marketing | 77,085.29 |
| Meals Miscellaneous | 0.00 1,137.85 |
| | ., |

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January through December 2006

| Office Alarm System | 457.44 |
|---------------------------------------|------------|
| Alarm System | 457 44 |
| | 701.77 |
| Business Licence | 389.79 |
| Credit Card Processing Fee | 20,248.24 |
| Linen Service | 11,124.85 |
| Postage/Shipping | 2,526.97 |
| Rent | 102,410.97 |
| Telephone | 5,268.10 |
| Office - Other | 20,041,35 |
| Total Office | 162,467.71 |
| Payroll Expenses Professional Fees | 142.87 |
| Accounting | 3,050.00 |
| Consulting | 1,500.00 |
| Legal | 10,548.60 |
| Total Professional Fees | 15,098.60 |
| Salaries | |
| Health Benefits | 27,446.82 |
| Payroll Processing Fee | 1,919.68 |
| Salaries - Other | 319,915.04 |
| Total Salaries | 349,281.54 |
| Sales Tax | 11,712.00 |
| State Tax | 1,600.00 |
| Travel | 5,338.80 |
| Total Expense | 941,858.86 |
| Net Ordinary-Income | 79,006.93 |
| Other Income/Expense | |
| Other Expense | |
| Depreciation | 77.571.00 |
| Property Tax | 3,797.93 |
| Total Other Expense | 81,368.93 |
| Net Other Income | -81,368.93 |
| Net Income | -2,362.00 |

January through December 2007

| | Jan - Dec 07 |
|------------------------------------|---------------------------|
| Ordinary Income/Expense | |
| Revenue | |
| Consulting Fees Revenue - Other | 23,500.00 1,158,706.35 |
| Total Revenue | 1,182,206.35 |
| Total Income | 1,182,206.35 |
| Expense | |
| Auto - Fuel | 2,656.57 |
| Bank Charges Car Leases | 69.50 4,746.68 |
| Consulting | 267.06 |
| Consumables | 23,113 |
| Botox | 112,418.25 |
| Cosmeian | 4,098.00 |
| Estertician supplies | 2,278.98 |
| Levulan | 7,361.95 |
| Medical Supplies | 19,186.75 38,491.73 |
| Restylane Skin Care | 30,491.73 115,811.48 |
| | 299,647,14 |
| Total Consumables | 255,041.14 |
| Equipment Expense Equipment Lease | 1,701.80 |
| Equipment Warranty | 18,162.50 |
| Total Equipment Expense | 19,864.30 |
| Insurance | |
| General Liability | 6,832.00 |
| Mai Practice | 17,238.72 |
| Workmans Comp | 11,889.00 |
| Total Insurance | 35,959.72 |
| Marketing | 7 024 47 |
| Collateral Creative | 7,021.47 7,180.00 |
| Direct Mail | 924.60 |
| Events | 2,324.19 |
| Internet | 6,545.67 |
| Newspaper Ad - Pasadena Weekly | 5,322.50 |
| NewspaperAd-NewBeauty | 2,993.75 |
| Pasadena Playhouse | 5,463.75 |
| Subscriptions | 1,249.23 -472.50 |
| Yellow Pages | |
| Total Marketing | 38,552.66 |
| Meals | 132.73 0.00 |
| Miscellaneous Office | 0.00 |
| Alarm System | 457.44 |
| Credit Card Processing Fee | 24,343.86 |
| Linen Service | 12,393.24 |
| Postage/Shipping | 426.63 |
| Rent | 116,409.32 |
| Telephone Office - Other | 4,201.17 23,997.03 |
| Total Office | 182,228.69 |
| Professional Fees | 1 00.,000 |
| Accounting | 3,050.00 |
| Legal | 7,830.60 |
| | 10,880.60 |
| Total Professional Fees | 10,000.00 |

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January through December 2007

| | Jan - Dec 07 |
|------------------------|--------------|
| Salaries | |
| CEO Salary | 132,000.00 |
| Health Benefits | 36,691.90 |
| Payroll Processing Fee | 2,200.28 |
| Salaries - Other | 343,523.97 |
| Total Salaries | 514,416.15 |
| Sales Tax | 14,610.00 |
| State Tax | 1,600.00 |
| Travel | 406.70 |
| Uniforms | 1,493.95 |
| Total Expense | 1,127,532.45 |
| Net Ordinary Income | 54,673.90 |
| Other Income/Expense | |
| Other Expense | |
| Depreciation | 84,000.00 |
| Property Tax | 3,866.70 |
| Total Other Expense | 87,866.70 |
| Net Other Income | -87,866.70 |
| let Income | -33,192.80 |

01/16/08 **Accrual Basis**

Skin Deep Laser Med Spa, Inc. **Balance Sheet** As of December 31, 2004

| | Dec 31, 04 |
|--|-------------|
| ASSETS Current Assets Checking/Savings | |
| Checking Account - ACM | 671.19 |
| Checking Account - Skin Deep | 742.29 |
| Skin Deep Adjustment | -742.29 |
| Total Checking/Savings | 671:19 |
| Other Current Assets | |
| Inventory | 15,000.00 |
| Loan Papadoplous | 5,252.00 |
| Shareholder Loan | 5,252.00 |
| Total Other Current Assets | 25,504.00 |
| Total Current Assets | 26,175.19 |
| Fixed Assets | |
| Accumulated Depreciation | -30,159.00 |
| Computers & Telephone | 5,451.98 |
| Furniture | 25,000.00 |
| Leasehold Improvements | 42,736.43 |
| Medical Equipment | 231,835.96 |
| Photo Studio | 7,250.00 |
| Total Fixed Assets | 282,115.37 |
| TOTAL ASSETS | 308,290.56 |
| LIABILITIES & EQUITY | |
| Liabilities . | |
| Long Term Liabilities | |
| Colin Hurren - Loan | 205,385.74 |
| Comerica Loan | 333,881.00 |
| Total Long Term Liabilities | 539,266.74 |
| Total Liabilities | 539,266.74 |
| Equity | |
| Equity | 5,000.00 |
| Retained Earnings | -19,022.39 |
| Net Income | -216,953.79 |
| Total Equity | -230,976.18 |
| TOTAL LIABILITIES & EQUITY | 308,290.56 |

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3:28 PM 01/16/08 Cash Basis

Skin Deep Laser Med Spa, Inc. Balance Sheet

As of December 31, 2005

| ASSETS Current Assets Checking Account - ACM 162.03 Checking Account - Skin Deep 18,575.50 Total Checking Account - Skin Deep 18,575.50 Total Checking Account - Skin Deep 18,737.53 Other Current Assets Inventory 19,398.00 Security Deposit 14,268.81 Total Other Current Assets 33,686.81 Total Current Assets 52,404.34 Fixed Assets | | Dec 31, 05 |
|--|-----------------------------|-------------|
| Checking/Savings | ASSETS | |
| Checking Account - ACM 162.03 18,575.50 Total Checking/Savings 18,737.53 18,737.53 Other Current Assets Inventory 19,398.00 Security Deposit 14,268.81 Total Other Current Assets 33,666.81 Total Current Assets 52,404.34 Fixed Assets Accumulated Depreciation -127,251.00 Computers & Telephone 5,451.98 Furniture 45,284.22 Leasehold Improvements 55,426.39 Medical Equipment 231,835.96 Photo Studio 20,100.00 Total Fixed Assets 230,847.55 TOTAL ASSETS 263,251.89 LIABILITIES & EQUITY Liabilities Colin Hurren - Loan Management Expenses -84,218.21 Colin Hurren - Loan - Other 169,674.68 Total Colin Hurren - Loan - 500,000.00 Total Long Term Liabilities 605,456.45 Comerica Loan 500,000.00 Total Long Term Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Total Checking/Savings | | 400.00 |
| Total Checking/Savings | | |
| Other Current Assets Inveintory 19,398.00 Security Deposit 14,268.81 Total Other Current Assets 33,686.81 Total Current Assets 52,404.34 Fixed Assets 52,404.34 Fixed Assets 52,404.34 Fixed Assets 62,404.34 Fixed Assets 63,451.98 Furniture 63,451.98 Furniture 645,284.22 Lessehold Improvements 53,42.39 Medical Equipment 231,835.96 Photo Studio 20,100.00 Total Fixed Assets 230,847.55 TOTAL ASSETS 283,251.89 LIABILITIES & EQUITY Liabilities Long Term Liabilities Colin Hurren - Loan Management Expenses 64,218.21 Colin Hurren - Loan 105,456.45 Total Colin Hurren - Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Inventory 19,398.00 Security Deposit 14,268.81 Total Other Current Assets 33,668.81 Total Current Assets 52,404.34 Fixed Assets 52,404.34 Fixed Assets 52,404.34 Fixed Assets Accumulated Depreciation -127,251.00 Computers & Telephone 5,451.98 Furniture 45,284.22 Leasehold improvements 55,426.39 Medical Equipment 231,835.96 Photo Studio 20,100.00 Total Fixed Assets 230,847.55 TOTAL ASSETS 283,251.89 LIABRITTIES & EQUITY Liabilities Long Term Liabilities Colin Hurren - Loan Management Expenses -64,218.21 Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Colin Hurren - Loan 500,000.00 Total Liabilities 605,456.45 Total Liabilities 605,456.45 Equity Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | Total Checking/Savings | 18,737.53 |
| Total Other Gurrent Assets 33,666.81 | | |
| Total Other Current Assets 33,686.81 Total Current Assets 52,404.34 Fixed Assets 52,404.34 Fixed Assets -127,251.00 Computers & Telephone 5,451.98 Furniture 45,284.22 Leasehold Improvements 55,428.39 Medical Equipment 231,835.96 Photo Studio 20,100.00 Total Fixed Assets 230,847.55 TOTAL ASSETS 283,251.89 LIABILITIES & EQUITY Liabilities Long Term Liabilities -84,218.21 Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Collin Hurren - Loan 500,000.00 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Total Current Assets Fixed Assets Accumulated Depreciation Computers & Telephone Furniture Leasehold Improvements Medical Equipment Photo Studio Total Fixed Assets Colin Hurren - Loan Management Expenses Colin Hurren - Loan Computers & EQUITY Liabilities Colin Hurren - Loan Management Expenses Colin Hurren - Loan Management Expenses Comerica Loan Total Long Term Liabilities Total Long Term Liabilities Total Long Term Liabilities Total Long Term Liabilities Total Liabilities Figurity Equity Equity Equity S,000.00 Retained Earnings Net Income -91,228.38 Total Equity -322,204.56 | Security Deposit | 14,268.81 |
| Fixed Assets Accumulated Depreciation Computers & Telephone Furniture Leasehold Improvements Medical Equipment Photo Studio Total Fixed Assets LIABILITIES & EQUITY Liabilities Long Term Liabilities Colin Hurren - Loan Management Expenses Colin Hurren - Loan Comprica Loan Total Colin Hurren - Loan Total Long Term Liabilities Comerica Loan Footal Loan Total Long Term Liabilities Comerica Loan Footal Loan Total Long Term Liabilities Comerica Loan Total Long Term Liabilities Footal Loan F | Total Other Current Assets | 33,666.81 |
| Accumulated Depreciation | Total Current Assets | 52,404.34 |
| Computers & Telephone 5,451.98 Furniture 45,284.22 Leasehold improvements 55,426.39 Medical Equipment 231,835.96 Photo Studio 20,100.00 Total Fixed Assets 230,847.55 TOTAL ASSETS 283,251.89 LIABILITIES & EQUITY Liabilities Long Term Liabilities -64,218.21 Colin Hurren - Loan 169,674.68 Total Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Furniture | | • |
| Leasehold Improvements 55,426.39 | | |
| Medical Equipment 231,835.96 Photo Studio 20,100.00 Total Fixed Assets 230,847.55 TOTAL ASSETS 283,251.89 LIABILITIES & EQUITY Liabilities Long Term Liabilities 64,218.21 Colin Hurren - Loan 169,674.68 Total Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Photo Studio 20,100.00 Total Fixed Assets 230,847.55 TOTAL ASSETS 283,251.89 LIABILITIES & EQUITY Liabilities Long Term Liabilities 64,218.21 Colin Hurren - Loan 169,674.68 Total Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Total Fixed Assets 230,847.55 TOTAL ASSETS 283,251.89 LIABILITIES & EQUITY Liabilities Long Term Liabilities 64,218.21 Colin Hurren - Loan 169,674.68 Total Colin Hurren - Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| TOTAL ASSETS LIABILITIES & EQUITY Liabilities Long Term Liabilities Colin Hurren - Loan Management Expenses Colin Hurren - Loan - Other Total Colin Hurren - Loan Comerica Loan Total Long Term Liabilities Total Liabilities Total Liabilities 605,456.45 Equity Equity Equity Equity Retained Earnings Net Income Total Equity -322,204.56 | 7 11000 000000 | |
| LIABILITIES & EQUITY Liabilities Long Term Liabilities Colin Hurren - Loan Management Expenses Colin Hurren - Loan - Other 169,674.68 Total Colin Hurren - Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity Equity Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | Total Fixed Assets | 230,847.55 |
| Liabilities Long Term Liabilities Colin Hurren - Loan Management Expenses Colin Hurren - Loan - Other Management Expenses Colin Hurren - Loan - Other Management Expenses Total Colin Hurren - Loan Management Expenses Fotal Colin Hurren - Loan Management Expenses Mana | TOTAL ASSETS | 283,251.89 |
| Long Term Liabilities Colin Hurren - Loan Management Expenses -64,218.21 Colin Hurren - Loan - Other 169,674.68 Total Colin Hurren - Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Colin Hurren - Loan 44,218.21 Management Expenses -64,218.21 Colin Hurren - Loan - Other 169,674.68 Total Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Management Expenses -64,218.21 Colin Hurren - Loan - Other 169,674.68 Total Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Colin Hurren - Loan - Other 169,674.68 Total Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | .84 349 34 |
| Total Colin Hurren - Loan 105,456.45 Comerica Loan 500,000.00 Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Total Long Term Liabilities 605,456.45 Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | |
| Total Liabilities 605,456.45 Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | Comerica Loan | 500,000.00 |
| Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | Total Long Term Liabilities | 605,456.45 |
| Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | Total Liabilities | 605,456.45 |
| Equity 5,000.00 Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | Equity | |
| Retained Earnings -235,976.18 Net Income -91,228.38 Total Equity -322,204.56 | | 5,000.00 |
| Total Equity -322,204.56 | | -235,976.18 |
| *************************************** | Net Income | -91,228.38 |
| TOTAL LIABILITIES & EQUITY 283,251.89 | Total Equity | -322,204.56 |
| | TOTAL LIABILITIES & EQUITY | 283,251.89 |

Page 1

EX F

| Photo Studio Total Fixed Assets TOTAL ASSETS LIABILITIES & EQUITY Liabilities Current Liabilities Current Liabilities Current Liabilities Accounts Payable Accounts P |
|--|
| s bable ayable s Payable Loan Loan Loan Loan Loan Loan Loan Loan |
| rotal Accounts Payable al Current Liabilities ag Term Liabilities CEO Accrued Salary Management Expenses Colin Hurren - Loan Cotal Colin Hurren - Loan Si Long Term Liabilities Gabilities |
| Gg Term Llabilities Celo Accrued Salary Management Expenses Colin Hurren - Loan Cotal Colin Hurren - Loan I Long Term Llabilities I Long Term Llabilities Ity Ity Income |
| Long Term Liabilities labilities labilities liy liy ined Earnings |
| ity ined Earnings |
| |

| | P&L adjust | | | 3,837.68 | 38.89 | 552.00 | 1,134,14 | | | | \$ 5,562.81 |
|-----------------------------|------------------|---|--|-------------------------------|------------------|------------------------------------|-------------------|---|---|---|---------------------------------|
| | Comment | Outstanding balance on equipment purchase | Pay Roll Checks dated 12/31/07 See attached will adjust. | Sales tax payable to 12/31/07 | | | Direct mail cost | Reversing entry would reduce inventory no effect on P & L | Reversing entry would reduce inventory no effect on P & L | Reversing entry would reduce inventory no effect on P & L | |
| | ø | 7,000.00 | 16,303.03 | 3,837.68 | 38.99 | 552.00 | 1,134.14 | 9,926.64 | 609.98 | 859,55 | \$ 40,262.01 |
| | € | 96,000.00 | | | 34,423.18 | (2,700.00) 1,628.00 1,628.00 | | | | ح. | (0) |
| als | | - d | | | 50 | tho | 5 | 2 | ~ | | , 2007 |
| Skin Deep Year End Accruals | Accounts Payable | Lumenis | Paychex | Los Angeles Tax Collector | Amarican Express | Lumenis | Modern Post Cards | McKesson | Allergan | American Express | Balance as at December 31, 2007 |
| | | | | | | | | | | | |

Exhibits - Motion for Sugarante Cancellation No. 92044697

Exhibits - Motion for Sugarante Cancellation No. 92044697

Exhibits - Motion for Summary Judgment March 10, 2009

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\$ (2,576.40)

\$ 2,986.41

Net Adjustment

1:39 PM 01/13/08 Accrual Basis

Skin Deep Laser Med Spa, Inc. Transaction Detail By Account

December 2007

Revenue loc 07

| Туре | Date | Num | Name | Memo | Cir | Split | Amount | Balance |
|--------------------|-----------------------------------|-----|-------------------------------------|--------------------|-----|--------------------------------|-----------------------|---------------------------------|
| Revenue | | | | | | | | |
| Deposit Deposit | 12/4/2007 | | Deposit Checks | Deposit | | Checking Acco | 3,134.43 | 3,134,43 |
| Deposit | 12/4/2007 12/4/2007 | | Lynk Systems | Deposit | | Checking Acco | 1,652,44 | 4,786.87 |
| Deposit | 12/4/2007 | | American Exp Settle, | | | Checking Acco | 1,634.05 | 6,420.92 |
| Deposit | 12/5/2007 | | Deposit Checks Lynk Systems | Deposit | | Checking Acco | 470.00 | 6,890.92 |
| Deposit | 12/6/2007 | | Lynk Systems | Deposit Deposit | | Checking Acco | 3,196.90 | 10,087.82 |
| Deposit | 12)6/2007 | | American Exp Settle | Deposit | | Checking Acco | 2,313.74 | 12,401.56 |
| Deposit | 12/7/2007 | | Lynk Systems | Deposit | | Checking Acco | 425.00 | 12,826.56 |
| Deposit | 12/7/2007 | | American Exp Settle | Deposit | | Checking Acco | 1,864.49 | 14,691.05 |
| Deposit | 12/10/2007 | | American Exp Settle | | | Checking Acco | 302.30 3,400.47 | 14,993.35 |
| Deposit Deposit | 12/10/2007 | | Lynk Systems | Deposit | | Checking Acco | 3,400.47 1,244.12 | 18,393,82 19,637,94 |
| Deposit | 12/10/2007 | | Deposit Checks | Deposit | | Checking Acco | 819.90 | 20,457.84 |
| Deposit | 12/10/2007 | | Deposit Checks | Deposit | | Checking Acco | 460.00 | 20,917.84 |
| Deposit | 12/10/2007 12/11/2007 | | American Exp Settle | Deposit | | Checking Acco | 55.00 | 20,972.84 |
| Deposit | 12/11/2007 | | Lynk Systems | Deposit | | Checking Acco | 4,907.75 | 25,880.59 |
| Deposit | 12/11/2007 | | Lynk Systems Discover Bus Syc | Deposit | | Checking Acco | 584,63 | 26,465.22 |
| Deposit | 12/11/2007 | | American Exp Settle | Deposit | | Checking Acco | 161,14 | 26,526.36 |
| Deposit | 12/12/2007 | | Lynk Systems | Deposit Deposit | | Checking Acco | 160.00 | 26,786.38 |
| -Deposit | 12/13/2007 | | Doposit Checks | Coposit | | Checking Acco | 4,220.11 | 31,006.47 |
| Deposit | 12/13/2007 | | Lynk Systems | Deposit | | Checking Acco | 2,133.74 | 33,140.21 |
| Deposit | 12/13/2007 | | American Exp Settle | Deposit | | Checking Acco | 1,576.40 | 34,716.61 |
| Deposit | 12/14/2007 | | Lynk Systems | Deposit | | Checking Acco | 1,061.03 1,557.44 | 35,777.64 |
| Deposit | 12/14/2007 | | American Exp Settle | Deposit | | Checking Acco | 482.60 | 37,335,08 |
| Deposit | 12/14/2007 | | Deposit Checks | Deposit | | Checking Acco | 195.00 | 37,817.68 38,012.68 |
| Deposit Çeposit | 12/17/2007 | | American Exp Settle | Deposit | | Checking Acco | 3,596,48 | 41,611,16 |
| Deposit | 12/17/2007 12/1 8/200 7 | | Lynk Systems | Deposit | | Checking Acco | 2,730.09 | 44,341.25 |
| Deposit | 12/18/2007 | | Lynk Systems | Deposit | | Checking Acco | 3,234.67 | 47,575.92 |
| Deposit | 12/18/2007 | | Lynk Systems American Exp Settle | Deposit | | Checking Acco | 1,862.56 | 49,438,48 |
| Check | 12/19/2007 | | Returned Check | Deposit | | Checking Acco | 1,256.50 | 50,694.98 |
| Deposit | 12/19/2007 | | Lynk Systems | Deposit | | Checking Acco | -668.74 | 50,026.24 |
| Deposit: | 12/19/2007 | | Deposit Checks | Deposit | | Checking Acco | 5,638.95 | 55,665.19 |
| Deposit | 12/20/2007 | | Lynk Systems | Deposit | | Checking Acco | 1,790.33 3,959,29 | 57,455.52 |
| Deposit | 12/20/2007 | | Deposit Checks | Deposit | | Checking Acco | 620,98 | 61,414.81 |
| Deposit | 12/20/2007 | | American Exp Settle | Deposit | | Checking Acco | 337.47 | 62,035.79 62,373.26 |
| Deposit Deposit | 12/21/2007 | | American Exp Settle | Deposit | | Checking Acco | 2,032.76 | 64,406.02 |
| Deposit | 12/21/2007 12/21/2007 | | Lynk Systems | Deposit | | Checking Acco | 1,332.51 | 65,738.53 |
| Deposit | 12/24/2007 | | Deposit Checks | Deposit | | Checking Acco | 960.50 | 66,699.03 |
| Deposit | 12/24/2007 | | Lynk Systems | Deposit | | Checking Acco | 3,657.47 | 70,356.50 |
| Check | 12/26/2007 | | American Exp Settle Returned Check | Deposit | | Checking Acco | 1,278.10 | 71,634.60 |
| Deposit | 12/26/2007 | | Lynk Systems | Dama-ti | | Checking Acco | -120 <i>.</i> 98 | 74,543.62 |
| Deposit | 12/26/2007 | | Lynk Systems | Deposit Deposit | | Checking Acco | 1,989.90 | 73,503.52 |
| Deposit | 12/26/2007 | | American Exp Settle | Deposit | | Checking Acco Checking Acco | 1,157.80 | 74,661.32 |
| Deposit | 12/26/2007 | | American Exp Settle | Deposit | | Checking Acco | 826.11 | 75,487.43 |
| Deposit | 12/27/2007 | | Lynk Systems | Deposit | | Checking Acco | 380.32 331.24 | 75,867.75 |
| Deposit | 12/28/2007 | | Deposit Checks | Deposit | | Checking Acco | 1,765.00 | 76,198.99 7 7 ,963,99 |
| Deposit Deposit | 12/29/2007 | | Lynk Systems | Deposit | | Checking Acco | 658.07 | 78,622.06 |
| Deposit | 12/29/2007 12/29/2007 | | American Exp Settle | Deposit | (| Checking Acco. | 425,00 | 79,047.06 |
| Deposit | 12/30/2007 | | Deposit Checks | Deposit | , | CHECKING MOCO | 260.00 | 79,307.06 |
| Deposit | 12/30/2007 | | Lynk Systems | Deposit | (| Checking Acco | 1,871.57 | 81,178.63 |
| Deposit | 12/30/2007 | | American Exp Settle Lynk Systems | Deposit | | Checking Acco | 413.00 | 81,591,63 |
| Deposit | 12/30/2007 | | Discover Bus Syc | Deposit | (| Checking Acco | 4,457.00 | 86,048.63 |
| Deposit | 12/30/2007 | | American Exp Settle | Deposit Deposit | | Checking Acco. | 425.00 | 86,473.63 |
| Deposit | 12/30/2007 | | Lynk Systems | Deposit | | Checking Acco | 489.52 | 86,963.15 |
| Deposit | 12/30/2007 | | American Exp Settle | Deposit | , | Checking Acco Checking Acco | 1,068.33 | 88,031.48 |
| General Journal | 12/30/2007 | 128 | | DEC 07 cash | ň | Aanagement E | 150.46 | 88,181.94 |
| Total Revenue | | | | | " | menugerrange L | 1,552.00 89,733.94 | 89,733.94 89,733.94 |
| TOTAL | | | | | | | | |
| | | | | 1 | | - | 89,733.94 | 89,733.94 |
| | | | | <i>A</i> , | | | | |

hgnk A/E Docover Lynt 658-07 425.00 425.00 1088-33.

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 137

Page 1 - 1

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| Summary of Expenditure (see attached schedule) | Anvalized | w |
|--|-------------|-------------|
| Childrens Expenses | | 44,556.37 |
| Jan Hurren's expenses | 000 | 16,026.48 |
| Colin Humen's expenses | • | - 72,419.13 |
| Charity Hillsides | 4294/ Other | 1,863.97 |
| ife Insurançe | | 1,331.56 |
| Legal fees | 761 16 | 5,977.25 |
| iusiness Expense | | 3,735.13 |
| Total Expenditure Period January 1, 2007 to October 31, 2007 | \$ | 145,909.89 |

| Financed by: | | w | ↔ | 6 |
|---|------------------|-----------|---|------------------------------|
| Cash balance as at January 1, 2007 less amounts pald in property settlement | Jan Humen IRS | | 723,574.42 (524,526.50) (12,766.44) | |
| Colin Hurren's cash balance as at January 1, 2007 less Cash balances as October 31, 2007 | Comerce 1 | 12 528 79 | \$ 186,281.48 | |
| HSBC HSBC Courts | , } | 3,095.65 | A & C340 07. | |
| Cash reserves used in the period January 1, 2007 to October 31, 2007 | | • | 3 (40,032.44) | 137,629.04 |
| Interest from HSBC account Skin Deep Account Skin Deep Account Skin Deep Account | | | ľ | 3,576.00 774.21 881.00 |

Cancel No. 92044697 Exhibits - Martello Decl. 2-14-09 Page 138

Colin Hürrert Analysis of expenditure January 1, 2007 to October 30, 2007

| et Jenuary 1, 2007 Apienses | ž | D, | Actount | 1 | 1 | _ | | | |
|--|------------------|----------|------------|---|--------------|--------------|----------|--------------|--------------|
| et January 1, 2007 | | • | | | Credit Card | | \$ | | |
| | | , | • | - | ** | ** | 44 | 41 | • |
| Appenses | 715,518.41 | 5,026.01 | 000 | 00.00 | 000 | 8 | 3,030,00 | 723,574.42 | 723,574.12 |
| | | - | | | | | | | |
| | (11,734.00) | | (465.00) | | | | | /40 4 mm bm | |
| Summer School & Other Activities | (2,075,00) | | | | | | | (14,100.00) | |
| Purchases: Booke, Presents, Atlowance, Ciothès | | | | (7.844 Ben) | G 707 E | | | (phainin) | |
| Medical out of packet expenses | | | | 1 | | (2000) | | (attended) | |
| Cell Phones | (357,41) | | (1 171 41) | 1424.35 | | | | 8 5 | |
| Travel Atex London Visit | | | | 1854 201 | | (780,000) | | (1,904.07) | |
| Chare & Mackenzis London & Venice | | | | (3,985,85) | | | | (R 100) | |
| Alex Hurren Car Insurance | (1,138,78) | · | (890.00) | (male) | | (manual) | | (2,026,19) | (44,656.37) |
| 4 | | | | | | | | /a (| · · |
| Jan Murraria Expenses & Support | | | | | | | | | |
| Can Durant Cal Rapar | | _ | | (866.15) | | | | (885,15) | |
| Complete Court and Court a | | | (375.15) | (386.19) | (870.14) | (750.00) | | (2,181.48) | |
| The state of the s | _ | | | (723.35) | | | | 23.50 | |
| Coddon Distriction | (5,017,00) | | (900:00) | | | | | (5.917.00) | |
| Later trustants car insurance | (1,138.78) | | (860.00) | - | | | | 2,028,70 | |
| CALL TUTTERT & CON DISCOVER | (238.27) | | (780.94) | 7283.501 | | | | | |
| Cleaner: Orta Portilio for Jan Human's residence | | | | | | (C) 800 5) | | | |
| Ball Bond for Jan Hurren | | | | | | | | (00.00) | |
| Property Settlement | 524 526 501 | _ | | | | (30.700, 5) | | (2,000.00) | (16,026,48) |
| | , | | | | | | | (224,526,30) | (524,526.50) |
| Balance carried (orward | \$ 164 292 68 \$ | | CA CAL P | 5 07 6 01 \$ (4 487 50) \$ (14 548 24) \$ (14 14 5 5 2) | 100 101 1/10 | 6 /h 200 co. | 20000 | | |

| | Exhibit A 2004 | Exhibit B 2005 | Exhibit C 2006 | Exhibit D total 2007 | total | average |
|---|-----------------------------------|-----------------------------------|-----------------------------------|------------------------------------|---------------------------------------|-----------------------------------|
| | partial year | | | | | 3.75 year |
| Income (Cash received) | 462,606 | 836,664 | 1,020,866 | | 1,182,206 3,502,342 | 933,958 |
| Cash Expenses Depreciation Officer salary | (649,401) (30,159) <u>0</u> | (830,800) (97,092) <u>0</u> | (945,657) (77,571) <u>0</u> | (999,393) (84,000) (132,000) | (3,425,251) (288,822) (132,000) | (913,400) (77,019) (35,200) |
| Income per books (cash method of accounting) | (\$216,954) | (\$91,228) | (\$2,362) | (\$33,187) | (\$343,731) | (\$91,662) |

above numbers taken from Quick Books reports given to Petitioner's attorney during December and at beginning of January 2008 for numbers related to update from October 2007 through December 2007.

See Ex A through D for detailed income and expenses cash basis.

Dissolution of Huren
Summary of Income from
ACM Enterprises dba Skin Deep adjusted to cash flow available for child support
From inception of Skin Deep to December 31, 2007

| p | average 3.75 year | 933,958 | (913,400) (77,019) (35,200) | (91,662) (42,846) 35,200 77,019 | (146,313) |
|------------|-------------------------------|------------------------|---|--|---|
| purchas | total a | 3,502,342 | (3,425,251) (288,822) (132,000) | (343,731) (160,672) 132,000 288,822 | (207.606) |
| whenp | Exhibit D to 2007 | 1,182,206 | (999,393) (84,000) (132,000) | (33,187) (54,638) 132,000 84,000 (2,986) | 1.164 |
| | Exhibit C E 2006 | 1,020,866 | (945,657) (77,571) | (2,362) (14,898) 0 77,571 | 17,441 |
| e quipment | Exhibit B E 2005 | 836,664 | (830,800) (97,092) <u>0</u> | (91,228) (91,136) 0 97,092 | (131,096) |
| n b e | Exhibit A E 2004 partial year | 462,606 | (649,401) (30,159) <u>0</u> | (216,954) 0 30,159 | (499,069) |
| s | | | | | |
| = | | | | (b | |
| O | | | | accounting) t E) | |
| Q | | | | con | nem |
| × | | | | of ac | uipn |
| Ð | | | | Income per books (cash method of acc Deferred Income add back officer's salary add back depreciation deduct increase in accruals (Exhibit E) | cash flow available expensing equipment |
| 100 | | | | me | asc |
| * | | Income (Cash received) | | Income per books (cash Deferred Income add back officer's salary add back depreciation deduct increase in accru | cash flow available expensi |
| Ø | | Jec. | Ø | oks ne sr's scia scia e in | labi |
| Method | | ush . | Cash Expenses Depreciation Officer salary | Income per book Deferred Income add back officer's add back depred deduct increase i | avaj |
| 4 | | <u>છ</u> | Cash Expens Depreciation Officer salary | in X X d re | ow : |
| 0 | • | шe | h E rec | bax bax uct | ب ب <u>∓</u> ج |
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Summary of income and expenese statements skin Deep from inception to December 2007

Dissolution of Huren
Summary of Income from
ACM Enterprises dba Skin Deep adjusted to cash flow available for child support
From inception of Skin Deep to December 31, 2007

| | Method #2 | 2 Using | ng 7 | χ, | year | life | for | personal p | property (not discussed | not | discussed | in | Asfaw | > | Woldberhan | |
|-----|---|--|---|--|----------------|---------|----------|--|--|-----|--|---|------------|--|--|--|
| | | | | | | | | Exhibit A 2004 | Exhibit B 2005 | | Exhibit C Ex 2006 | Exhibit D | total 7 | | average | |
| | | | | | | | | partial year | | | | | | | 3.75 year | |
| | Income (Cash received) | h receive | Q | | | | | 462,606 | 836,664 | • | , 020,866 | 1,182,206 | | 3,502,342 | 933,958 | |
| | Cash Expenses Depreciation Officer salary | Ses | | | | | | (649,401) (30,159) <u>0</u> | (830,800) (97,092) <u>0</u> | | (945,657) (77,571) <u>0</u> | (999,393) (84,000) (132,000) | 60 | (3,425,251) (288,822) (132,000) | (913,400) (77,019) (35,200) | |
| | Income per books (cash method of accounting) Deferred Income Add back book depreciation Add back book oficer's salary | ooks (ca: ome ok deprec ok oficer's | sh met iation salan | o pou | facco | unting | <u>~</u> | (216,954) 30,159 0 | (91,228) (91,136) 97,092 0 | _ | (2,362) (14,898) 77,571 0 | (33,187) (54,638) 84,000 132,000 | | (343,731) (160,672) 288,822 132,000 | (91,662) (42,846) 77,019 35,200 | |
| | deduct 2004 purchase depreciation deduct 2005 purchase depreciation deduct 2006 purchase depreciation deduct 2007 purchase depreciation deduct increase in accruals (Exhibit E) | purchase purchase purchase purchase | depredepredepredepredepredepredepredepr | ciation ciation ciation ciation Exhibi | ر د د (| | | (44,611) (6,547) (6,124) (17,718) | (44,611) (6,547) (6,124) (17,718) | | (44,611) (6,547) (6,124) (17,718) | (44,611) (6,547) (6,124) (17,718) (2,986) | | (44,611) (6,547) (6,124) (17,718) | (44,611) (6,547) (6,124) (17,718) | |
| Can | Cash flow available expensing equipment | allable ex | pensin | nbə 6 | ipmen | | | (261,795) | (160.272) | | (14,689) | 50.189 | -1. | (158,581) | (97.288) | |

Summary of income and expenese statements skin Deep from inception to December 2007

Dissolution of Huren
Summary of Income from
ACM Enterprises dba Skin Deep adjusted to cash flow available for child support
From inception of Skin Deep to December 31, 2007

| supporting parent | chibit D total average 2007 3.75 year | 1,182,206 3,502,342 933,958 | (999,393) (3,425,251) (913,400) (84,000) (288,822) (77,019) (132,000) (132,000) | (33,187) (343,731) (91,662) (54,638) (160,672) (42,846) 132,000 132,000 35,200 50,000 n/a n/a (2,986) | <u>8/u</u> <u>8/</u> u e | 91,189 (372,403) (99,307) |
|-------------------|---|-----------------------------|---|--|---------------------------|---|
| 0 d d n | Exhibit C Exhibit D 2006 200 | 1,020,866 | (945,657) (77,571) | (2,362) (14,898) 0 n/a | <u>e/u</u> | (17.260) |
| o f s | Exhibit B E 2005 | 836,664 | (830,800) (97,092) <u>0</u> | (91,228) (91,136) 0 n/a | <u>n/a</u> | (182,364) |
| style | Exhibit A 2004 partial year | 462,606 | (649,401) (30,159) <u>0</u> | (216,954) 0 n/a | <u>e/u</u> | (216,954) |
| Method #3 lies | | Income (Cash received) | Cash Expenses Depreciation Officer salary | Income per books (cash method of accounting) Deferred Income add back officer's salary add back depreciation deduct increase in accruals (Exhibit E) | deduct equipment purchase | Cash flow available expensing equipment |

Summary of income and expenese statements skin Deep from inception to December 2007

OCCUPATION

Forensic Accountant and Business Valuator and Economist

GENERAL BACKGROUND

Bachelor of Science, California State University at Northridge, 1977. Major: Accounting.

Various courses on aspects of Family Law, Taxation and Litigation Support given by American Institute of Certified Public Accountants and California C.P.A. Foundation, as well as various Bar Association Seminars.

Testified over 200 times in Superior Court in Orange, Ventura, and Los Angeles Counties, in jury and non-jury matters, regarding business valuations, tracing of assets, income calculations, lost earnings, accountant's malpractice, employment law and related matters.

PROFESSIONAL BACKGROUND

Admitted to practice as Certified Public Accountant in State of California in 1980.

Principle in Krycler, Ervin, Taubman & Walheim, An Accountancy Corporation on January 1, 2001 (successor to Getz, Krycler & Jakubovits)

1990-2001, associated with Getz, Krycler & Jakubovits in Sherman Oaks, California, specializing in litigation support, family law support, economic damages, estate tax planning, business dissolution valuation, and tax litigation matters.

Cases include: representing plaintiff in corporate loss of earnings against banks for failure to fund loans, corporate lost earnings for failure of bank to execute due diligence, lost earnings for failure to pay general contractor for main electrical contract on the construction electrical cogeneration contract, case involving discovering over 100,000 documents, participating in six depositions to prove lost earnings from profit participation of a major California builder, insurance fraud matters involving publicly held companies, criminal fraud cases, and numerous family law cases. Have prepared numerous lost earnings reports for Personal Injury cases and employment termination matters.

Participated in numerous San Fernando Valley Bar specialization meetings. Active in various functions of San Fernando Valley Bar as a sponsoring accounting firm since 1991.

From 1987 to 1989 associated with White and Zuckerman, CPAs, in Hollywood, California. Prepared numerous valuations of medical, legal, dental, accounting and other professional practices as well as various retail and large utility businesses for marital dissolution. Valued various businesses jointly for partnership winding up and dissolution. Performed litigation support services for jury trials pertaining to corporate veil defense as part of the San Juan Dupont Plaza fire in San Juan, Puerto Rico, USA. The case involved analyzing and reconstructing books of 40 interrelated

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 144

15303 VENTURA BOULEVARD, SUITE 1040 | SHERMAN OAKS, CALIFORNIA 91403 | P.818.995.1040 | F. 818.995.413 WWW.KETW.COM | EMAIL: INFO@KETW.COM | EXHIBIT "

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Page Two Kenneth Mark Walheim Curriculum Vitae

companies over a 10 year period and abstracting intercompany transactions over the period for Federal District Court Trial in San Juan, April, 1989, as well as wrongful termination damage calculations and testimony; testified on accountants' responsibilities to clients and ethical limitations on accountants' actions in dealings with clients and various breech of contract damage calculations for purposes of litigation.

In addition to the valuation work mentioned above, prepared strict tracings of assets during marriages, partnerships and estates as well as Cash Available for Support Schedules for OSCs and final marital dissolution orders. Lectured at San Fernando Valley and Los Angeles Bar Associations meetings regarding support.

1985 to 1987 associated with Gursey Schneider and Company, Los Angeles, California. Prepared valuations of various businesses and related Cash Available for Support for marital dissolution.

From 1982 to 1984 associated with William R. Lucas and Company, South Pasadena, California. Prepared the tax returns of numerous "tax advantaged investments" (tax shelters) in oil, real estate and leasing as well as the numerous audits of the partners in "tax advantaged investments".

In addition to the above, involved in several due diligence cases involving United State Tax Court cases, requiring work to mitigate Tax Penalties imposed for gross negligence.

From 1979 to 1982 associated with Block, Good and Gagerman, CPAs, Sherman Oaks, California. Prepared hundreds of partnership, trust, corporate and individual tax returns. Placed many taxpayers in qualified "tax advantaged investments" and represented before the IRS numerous taxpayers both at the audit and appellate level. In addition to the above mentioned tasks, also assisted attorneys in Tax Fraud Litigation Support.

Prepared projections and tax planning for private placements in real estate partnerships, including equity analysis, soft costs, site costs and shell costs. Followed through with the supervision of the preparation of tax returns and related tax planning of partners. Clients included San Val Development Corporation.

1977 to 1979 associated with Robert Zimmerman and Company, Los Angeles, California. Prepared certified audits, including movie fraud audits, tracings, tax returns, and various accounting projects.



| Input Data | Father | Mother | Guideline (2 | 007) | Cash Flow Analysis | Gdin. | Prop. |
|---|--------|--------|-----------------|---------------------------------------|-------------------------------|----------------|-------|
| Party Info | Father | Mother | Nets (adjusted) | | Comb. net spendable | 3937 | 3937 |
| Number of children | 0 | 3 | Father | 96 | Percent change | 0% | 0.0% |
| % time with NCP | 33.00 | 0.00 | Mother | 3841 | Father | | |
| Filing Status | Single | HH/MLA | Total | 3937 | Payment benefit | 800 | 800 |
| # federal exemptions | 1* | 4* | Support | | Net spendable income | 896 | 896 |
| Wages + salary | 97 | 1500 | Presumed CS | 800 | Change from guideline | 0 | 0 |
| Self-employment income | 0 | 0 | Basic CS | 800 | % of combined spendable | 22.8% | 22.8% |
| Other taxable income | 0 | 2500 | Add-ons | . 0 | % of saving over guideline | 0% | 0.0% |
| TANF plus CS received | 0 | 0 | Per Kid | | Total Taxes | 1 | 1 |
| Other nontaxable income | 0 | 0 | Child 1 | 183 | Dep. exemptions value | 0 | 0 |
| New-spouse income | 0 | 0 | Child 2 | 248 | # withholding allowances | 0(w 5) | 0(w5) |
| Wages + Salary | 0 | 0 | Child 3 | 369 | Net wage paycheck | 109 | 109 |
| Self-employment income | 0 | 0 | Spousal | blocke | Mother, payor of CS, Prop. CS | | |
| SS paid other marraige | 0 | . 0 | Support | đ | Payment cost | 800 | 800 |
| Retirement contrib. if ATI | 0 | 0 | Total | 800 | Net spendable income | 3041 | 3041 |
| Required union dues | 0 | 0 | Proposed, Tacti | ic 9 | Change from guideline | 0 | 0 |
| Nec. Job-related exp. | 0 | 0 | Presumed CS | 800 | % of combined spendable | 77.2% | 77.2% |
| Adj. income (ATI) | 0 | 0 | S. Clara SS | 0 | % of saving over guideline | 0% | 0.0% |
| SS paid other marriage | 0 | 0 | Total | 800 | Total Taxes | 159 | 159 |
| CS paid other relationship | 0 | 0 | Comb. Savings | 0 | Dep. exemptions value | 0 | 0 |
| Health insurance | 0 | 0 | Releases | 0 | # withholding allowances | 3 | 3 |
| Itemized deductions | 0 | . 0 | Default Case S | ettinas | Net wage paycheck | 1334 | 1334 |
| Other medical expenses | 0 | 0 | Default Tax Se | _ | | | |
| Property tax expenses | 0 | 0 | | · · · · · · · · · · · · · · · · · · · | | | |
| Ded. interest expense | 0 | 0 | | | | | |
| Charitable contribution | 0 | 0 | | | | | |
| Miscellaneous itemized | 0 | 0 | | | | | |
| Required union dues | 0 | 0 | | | | | |
| Mandatory retirement | 0 | 0 | | | | | |
| Hardship deduction | 0* | 0* | | | | | |
| Other guideline deductions | 0 | 0 | | | | | |
| AMT Info (IRS Form 6251) | 0 | 0 | | | | | |
| Child support add-ons | 0 | 0 | | | | | |
| • | | | | | | | |

Time: 09:29:57 AM

Ken KETW Date: 01/17/2008

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 146 Sch 3 -1

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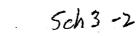


| Number of children 0 3 Father 3101 Percent change 0% 1. % time with NCP 33.00 0.00 Mother 3841 Father, payor of CS, Prop. CS Filing Status Single HH/MLA Total 6942 Payment cost 526 # federal exemptions 1* 4* Support Net spendable income 2575 2 Wages + salary 4182 1500 Presumed CS -526 Change from guideline 0 3 Self-employment income 0 2500 Add-ons 0 % of combined spendable 37.1% 39. Other taxable income 0 2500 Add-ons 0 % of combined spendable 37.1% 39. Other nontaxable income 0 0 Per Kid Total Taxes 1082 1 New-spouse income 0 0 Child 1 -78 Dep. exemptions value 0 New-spouse income 0 0 Child 3 -300 Net wage paycheck 3023 | Input Data | Father | Mother | Guideline (20 | 007) | Cash Flow Analysis | Gdin. | Prop. |
|---|----------------------------|--------|--------|-----------------|---------|-------------------------------|-------|---------|
| % time with NCP 33.00 0.00 Mother 3841 Father, payor of CS, Prop. CS Filing Status Single HH/MLA Total 6942 Payment cost 526 # federal exemptions 1* 4* Support Net spendable income 2575 2 Wages + salary 4182 1500 Presumed CS -526 Change from guideline 0 39. Self-employment income 0 0 Basic CS -526 % of combined spendable 37.1% 39. Other taxable income 0 2500 Add-ons 0 % of saving over guideline 0% 214. TANF plus CS received 0 0 Per Kid Total Taxes 1082 4 Other nontaxable income 0 0 Child 1 -78 Dep. exemptions value 0 New-spouse income 0 0 Child 2 -148 # withholding allowances 1 Wages + Salary 0 0 Child 3 -300 Net wage paycheck 3023 | Party Info | Father | Mother | Nets (adjusted) | | Comb. net spendable | 6942 | 7042 |
| Filing Status Single HH/MLA Total 6942 Payment cost 526 # federal exemptions 1* 4* Support Net spendable income 2575 2 Wages + salary 4182 1500 Presumed CS -526 Change from guideline 0 37.1% 39. Other taxable income 0 2500 Add-ons 0 % of saving over guideline 0% 214. TANF plus CS received 0 0 Per Kid Total Taxes 1082 5 Other nontaxable income 0 0 Child 1 -78 Dep. exemptions value 0 1 New-spouse income 0 0 Child 2 -148 # withholding allowances 1 Wages + Salary 0 0 Child 3 -300 Net wage paycheck 3023 33 Self-employment income 0 0 Spousal blocke Mother Sp paid other marraige 0 0 Total -526 Net spendable income | Number of children | 0 | 3 | Father | 3101 | Percent change | 0% | 1.4% |
| # federal exemptions 1* 4* Support Net spendable income 2575 2 Wages + salary 4182 1500 Presumed CS -526 Change from guideline 0 Self-employment income 0 0 Basic CS -526 % of combined spendable 37.1% 39. Other taxable income 0 2500 Add-ons 0 % of saving over guideline 0% 214. TANF plus CS received 0 0 Per Kid Total Taxes 1082 Other nontaxable income 0 0 Child 1 -78 Dep. exemptions value 0 0 New-spouse income 0 0 Child 2 -148 # withholding allowances 1 Wages + Salary 0 0 Child 3 -300 Net wage paycheck 3023 33 Self-employment income 0 Spousal blocke Mother SS paid other marraige 0 Support d Payment benefit 526 Retirement contrib. if ATI 0 Total -526 Net spendable income 4367 43 Required union dues 0 Proposed, Tactic 9 Change from guideline 0 -7 Required union dues 0 Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) 0 Total -842 Total Taxes 159 | % time with NCP | 33.00 | 0.00 | Mother | 3841 | Father, payor of CS, Prop. CS | | |
| Wages + salary 4182 1500 Presumed CS -526 Change from guideline 0 39. Self-employment income 0 0 Basic CS -526 % of combined spendable 37.1% 39. Other taxable income 0 2500 Add-ons 0 % of saving over guideline 0% 214. TANF plus CS received 0 0 Per Kid Total Taxes 1082 50. Other nontaxable income 0 0 Child 1 -78 Dep. exemptions value 0 0 New-spouse income 0 0 Child 2 -148 # withholding allowances 1 Wages + Salary 0 0 Child 3 -300 Net wage paycheck 3023 33. Self-employment income 0 0 Spousal blocke Mother SS paid other marraige 0 0 Total -526 Net spendable income 4367 44 Required union dues 0 0 Presumed CS -842 | Filing Status | Single | HH/MLA | Total | 6942 | Payment cost | 526 | 311 |
| Self-employment income 0 0 Basic CS -526 % of combined spendable 37.1% 39. Other taxable income 0 2500 Add-ons 0 % of saving over guideline 0% 214. TANF plus CS received 0 0 Per Kid Total Taxes 1082 Other nontaxable income 0 0 Child 1 -78 Dep. exemptions value 0 New-spouse income 0 0 Child 2 -148 # withholding allowances 1 Wages + Salary 0 0 Child 3 -300 Net wage paycheck 3023 39. Self-employment income 0 0 Spousal blocke Mother SS paid other marraige 0 0 Support d Payment benefit 526 Retirement contrib. if ATI 0 Total -526 Net spendable income 4367 49. Required union dues 0 Proposed, Tactic 9 Change from guideline 0 -10 Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) 0 Total -842 Total Taxes 159 | # federal exemptions | 1* | 4* | Support | | Net spendable income | 2575 | 2790 |
| Other taxable income 0 2500 Add-ons 0 % of saving over guideline 0% 214. TANF plus CS received 0 0 Per Kid Total Taxes 1082 Other nontaxable income 0 0 Child 1 -78 Dep. exemptions value 0 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 | Wages + salary | 4182 | 1500 | Presumed CS | -526 | Change from guideline | 0 | 215 |
| TANF plus CS received 0 0 Per Kid Total Taxes 1082 Other nontaxable income 0 0 Child 1 -78 Dep. exemptions value 0 1 New-spouse income 0 0 Child 2 -148 # withholding allowances 1 Wages + Salary 0 0 Child 3 -300 Net wage paycheck 3023 30 Self-employment income 0 Spousal blocke Mother SS paid other marraige 0 Support d Payment benefit 526 Retirement contrib. if ATI 0 Total -526 Net spendable income 4367 40 Required union dues 0 Proposed, Tactic 9 Change from guideline 0 -1 Nec. Job-related exp. 0 Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) 0 Total -842 Total Taxes 159 | Self-employment income | 0 | 0 | Basic CS | -526 | % of combined spendable | 37.1% | 39.6% |
| Other nontaxable income00Child 1-78Dep. exemptions value0New-spouse income00Child 2-148# withholding allowances1Wages + Salary00Child 3-300Net wage paycheck302330Self-employment income00SpousalblockeMotherSS paid other marraige00SupportdPayment benefit52640Retirement contrib. if ATI00Total-526Net spendable income436740Required union dues00Proposed, Tactic 9Change from guideline0-1Nec. Job-related exp.00Presumed CS-842% of combined spendable62.9%60.Adj. income (ATI)00S. Clara SS0% of saving over guideline0%-114.SS paid other marriage00Total-842Total Taxes159 | Other taxable income | . 0 | 2500 | Add-ons | 0 | % of saving over guideline | 0% | 214.9% |
| New-spouse income00Child 2-148# withholding allowances1Wages + Salary00Child 3-300Net wage paycheck302338Self-employment income00SpousalblockeMotherSS paid other marraige00SupportdPayment benefit52648Retirement contrib. if ATI00Total-526Net spendable income436748Required union dues00Proposed, Tactic 9Change from guideline0-Nec. Job-related exp.00Presumed CS-842% of combined spendable62.9%60.Adj. income (ATI)00S. Clara SS0% of saving over guideline0%-114.SS paid other marriage00Total-842Total Taxes159 | TANF plus CS received | 0 | 0 | Per Kid | | Total Taxes | 1082 | 551 |
| Wages + Salary00Child 3-300Net wage paycheck302333Self-employment income00SpousalblockeMotherSS paid other marraige00SupportdPayment benefit526Retirement contrib. if ATI00Total-526Net spendable income436743Required union dues00Proposed, Tactic 9Change from guideline0-Nec. Job-related exp.00Presumed CS-842% of combined spendable62.9%60.Adj. income (ATI)00S. Clara SS0% of saving over guideline0%-114.SS paid other marriage00Total-842Total Taxes159 | Other nontaxable income | 0 | 0 | Child 1 | -78 | Dep. exemptions value | 0 | 215 |
| Self-employment income 0 0 Spousal blocke Mother SS paid other marraige 0 0 Total -526 Net spendable income 4367 43 Required union dues 0 0 Proposed, Tactic 9 Change from guideline 0 - Nec. Job-related exp. 0 Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) 0 Total -842 Total Taxes 159 | New-spouse income | 0 | 0 | Child 2 | -148 | # withholding allowances | 1 | 10 |
| SS paid other marraige 0 0 Support d Payment benefit 526 Retirement contrib. if ATI 0 0 Total -526 Net spendable income 4367 43 Required union dues 0 Proposed, Tactic 9 Change from guideline 0 - Nec. Job-related exp. 0 Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) 0 S. Clara SS 0 % of saving over guideline 0% -114. SS paid other marriage 0 Total -842 Total Taxes 159 | Wages + Salary | 0 | 0 | Child 3 | -300 | Net wage paycheck | 3023 | 3581 |
| Retirement contrib. if ATI 0 0 Total -526 Net spendable income 4367 4367 Required union dues 0 0 Proposed, Tactic 9 Change from guideline 0 -7 Nec. Job-related exp. 0 0 Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) 0 0 Total -842 Total Taxes 159 | Self-employment income | 0 | 0 | | blocke | Mother | | |
| Required union dues 0 0 Proposed, Tactic 9 Change from guideline 0 - Nec. Job-related exp. 0 Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) 0 S. Clara SS 0 % of saving over guideline 0% -114. SS paid other marriage 0 Total -842 Total Taxes 159 | SS paid other marraige | 0 | 0 | Support | | Payment benefit | 526 | 411 |
| Nec. Job-related exp. O O Presumed CS -842 % of combined spendable 62.9% 60. Adj. income (ATI) O O S. Clara SS O % of saving over guideline O -842 Total Taxes 159 | Retirement contrib. if ATI | 0 | 0 | | | Net spendable income | 4367 | 4252 |
| Adj. income (ATI) O 0 S. Clara SS O % of saving over guideline O 70 Total | Required union dues | 0 | . 0 | Proposed, Tacti | | | 0 | -115 |
| SS paid other marriage 0 0 Total -842 Total Taxes 159 | Nec. Job-related exp. | 0 | 0 | Presumed CS | -842 | % of combined spendable | 62.9% | 60.4% |
| 55 paid other marriage 0 0 0 10tal raxes | Adj. income (ATI) | 0 | 0 | S. Clara SS | 0 | % of saving over guideline | 0% | -114.9% |
| | SS paid other marriage | 0 | 0 | Total | -842 | Total Taxes | 159 | 590 |
| CS paid other relationship | CS paid other relationship | 0 | 0 | Comb. Savings | 100 | Dep. exemptions value | 0 | -115 |
| to Father | Health insurance | 0 | 0 | | . 3 | # withholding allowances | 3 | 0(es) |
| Itemized deductions 0 0 Net wage paycheck 1334 1 | Itemized deductions | 0 | 0 | to rather | | Net wage paycheck | 1334 | 1217 |
| Other medical expenses 0 0 Default Case Settings | Other medical expenses | 0 | 0 | Default Case S | ettings | | | |
| Property tax expenses 0 0 Default Tax Settings | Property tax expenses | 0 | 0 | Default Tax Se | ettings | | | |
| Ded. interest expense 0 0 | Ded. interest expense | 0 | 0 | | | | | |
| Charitable contribution 0 0 | Charitable contribution | 0 | 0 | | | | | |
| Miscellaneous itemized 0 0 | Miscellaneous itemized | 0 | 0 | | | | | |
| Required union dues 0 0 | Required union dues | 0 | 0 | | , | | | |
| Mandatory retirement 0 0 | Mandatory retirement | 0 | 0 | | | | | |
| Hardship deduction 0* 0* | Hardship deduction | 0* | 0* | | | | | |
| Other guideline deductions 0 0 | Other guideline deductions | 0 | 0 | | | | | |
| AMT Info (IRS Form 6251) 0 0 | AMT Info (IRS Form 6251) | 0 | 0 | | | | | |
| Child support add-ons 0 0 | Child support add-ons | 0 | 0 | | | | | |

Time: 09:30:29 AM

Ken KETW Date: 01/17/2008

Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 Page 147





| Input Data | Father | Mother | Guideline (2 | 007) | Cash Flow Analysis | Gdin. | Prop. |
|----------------------------|--------|--------|--------------------------|---------|-------------------------------|-------|---------|
| Party Info | Father | Mother | Nets (adjusted) | | Comb. net spendable | 9286 | 9308 |
| Number of children | 0 | 3 | Father | 5445 | Percent change | 0% | 0.2% |
| % time with NCP | 33.00 | 0.00 | Mother | 3841 | Father, payor of CS, Prop. CS | | |
| Filing Status | Single | HH/MLA | Total | 9286 | Payment cost | 1315 | 1106 |
| # federal exemptions | 1* | 4* | Support | | Net spendable income | 4130 | 4339 |
| Wages + salary | 7599 | 1500 | Presumed CS | 1315 | Change from guideline | 0 | 209 |
| Self-employment,income | 0 | 0 | Basic CS | 1315 | % of combined spendable | 44.5% | 46.6% |
| Other taxable income | 300 | 2500 | Add-ons | 0 | % of saving over guideline | 0% | 936.6% |
| TANF plus CS received | 0 | 0 | Per Kid | | Total Taxes | 2625 | 2172 |
| Other nontaxable income | 171 | 0 | Child 1 | 236 | Dep. exemptions value | 0 | 209 |
| New-spouse income | 0 | 0 | Child 2 | 385 | # withholding allowances | 1 | 6 |
| Wages + Salary | 0 | 0 | Child 3 | 694 | Net wage paycheck | 4959 | 5379 |
| Self-employment income | 0 | 0 | Spousal | blocke | Mother | | |
| SS paid other marraige | 0 | 0 | Support | d | Payment benefit | 1315 | 1129 |
| Retirement contrib. if ATI | 0 | 0 | Total | 1315 | Net spendable income | 5156 | 4970 |
| Required union dues | 0 | 0 | Proposed, Tacti | c 9 | Change from guideline | 0 | -187 |
| Nec. Job-related exp. | 0 | 0 | Presumed CS | 1560 | % of combined spendable | 55.5% | 53.4% |
| Adj. income (ATI) | 0 | 0 | S. Clara SS | 0 | % of saving over guideline | 0% | -836.6% |
| SS paid other marriage | 0 | 0 | Total | 1560 | Total Taxes | 159 | 590 |
| CS paid other relationship | 0 | 0 | Comb. Savings | 22 | Dep. exemptions value | 0 | -187 |
| Health insurance | 0 | 0 | Total releases to Father | 3 | # withholding allowances | . 3 | 0(es) |
| Itemized deductions | 0 | 0 | to i autei | | Net wage paycheck | 1334 | 1217 |
| Other medical expenses | 0 | 0 | Default Case S | ettings | | | |
| Property tax expenses | 0 | 0 | Default Tax Se | ttings | | | |
| Ded. interest expense | 0 | 0 | | | | | |
| Charitable contribution | 0 | 0 | | | | | |
| Miscellaneous itemized | 0 | 0 | | | | | |
| Required union dues | 0 | 0 | | | | | |
| Mandatory retirement | 0 | 0 | | | | | |
| Hardship deduction | 0* | 0* | | | | | |
| Other guideline deductions | 0 | 0 | | | | | |
| AMT Info (IRS Form 6251) | 0 | 0 | | | • | | |
| Child support add-ons | 0 | 0 | | | | | |
| | | | | | | | |

Time: 01:31:08 PM

Ken KETW

Sch 3-3

Date: 01/17/2008



| Input Data | Father | Mother | Guideline (2 | 007) | Cash Flow Analysis | Gdin. | Prop. |
|----------------------------|--------|--------|-----------------|---------|-------------------------------|----------------|-------|
| Party Info | Father | Mother | Nets (adjusted) | | Comb. net spendable | 9316 | 9375 |
| Number of children | 0 | 3 | Father | 5497 | Percent change | 0% | 0.6% |
| % time with NCP | 33.00 | 0.00 | Mother | 3818 | Father, payor of SS, CS, Prop | p. SS, Prop. (| CS - |
| Filing Status | Single | HH/MLA | Total | 9316 | Payment cost | 1414 | 1362 |
| # federal exemptions | 1* | 4* | Support | | Net spendable income | 4031 | 4083 |
| Wages + salary | 7599 | 1500 | Presumed CS | 1315 | Change from guideline | 0 | 52 |
| Self-employment income | 0 | 0 | Basic CS | 1315 | % of combined spendable | 43.3% | 43.6% |
| Other taxable income | 300 | 2500 | Add-ons | 0 | % of saving over guideline | 0% | 87.5% |
| TANF plus CS received | 0 | 0 | Per Kid | | Total Taxes | 2573 | 2021 |
| Other nontaxable income | 171 | 0 | Child 1 | 236 | Dep. exemptions value | 0 | 52 |
| New-spouse income | 0 | 0 | Child 2 | 385 | # withholding allowances | 1 | 7 |
| Wages + Salary | 0 | 0 | Child 3 | 694 | Net wage paycheck | 4959 | 5457 |
| Self-employment income | 0 | 0 | S. Clara SS | 151 | Mother | | |
| SS paid other marraige | 0 | 0 | Total | 1466 | Payment benefit | 1443 | 1451 |
| Retirement contrib. if ATI | 0 | 0 | Proposed, Tacti | c 9 | Net spendable income | 5284 | 5292 |
| Required union dues | 0 | 0 | Presumed CS | 1560 | Change from guideline | 0 | 7 |
| Nec. Job-related exp. | 0 | 0 | S. Clara SS | 406 | % of combined spendable | 56.7% | 56.4% |
| Adj. income (ATI) | 0 | 0 | Total | 1966 | % of saving over guideline | 0% | 12.5% |
| SS paid other marriage | 0 | 0 | Comb. Savings | 59 | Total Taxes | 182 | 674 |
| CS paid other relationship | 0 | 0 | Total releases | 3 | Dep. exemptions value | 0 | 7 |
| Health insurance | 0 | 0 | to Father | | # withholding allowances | 2 | 0(es) |
| Itemized deductions | 0 | 0 | Default Case S | ettings | Net wage paycheck | 1302 | 1217 |
| Other medical expenses | 0 | 0 | Default Tax Se | • | | | |
| Property tax expenses | 0 | 0 | | | | | |
| Ded. interest expense | 0 | 0 | | | | | |
| Charitable contribution | 0 | 0 | | | | | |
| Miscellaneous itemized | 0 | 0 | | | | | |
| Required union dues | 0 | 0 | | | | | |
| Mandatory retirement | 0 | 0 | | | | | |
| Hardship deduction | 0* | 0* | | | | | |
| Other guideline deductions | 0 | 0 | | | | | |
| AMT Info (IRS Form 6251) | 0 | 0 | | | | | |
| Child support add-ons | 0 | 0 | | | | | |
| | | | | | | | |

Time: 01:30:51 PM

Ken KETW

Cancellation No. 92044697
Exhibits - Motion for Summary Judgment
March 10, 2009
Page 149

Sch 3-84

Date: 01/17/2008

| يت المنابع الم | ŢL. | |
|--|---|------------|
| TORNEY OR PARTY WITHOUT ATTORNEY OR GOVERNMENTAL AGENCY (under Family Code, 85 17400, 1 | (7408) FOR COURT USE ONLY | |
| one, state ber number, and address): onald P. Schweitzer SBN-166412 | | |
| aw Offices of Donald P. Schweitzer | | |
| NOTITIES OF BONAIG F. Schwertzer Of South Lake Avenue | | |
| ite 700 | | |
| asadena, CA 91101 | | |
| TELEPHONE NO.: (626) 683-8113 FAX.NO.: | - | ٠. |
| TORNEY FOR (Name): Colin Hurren | | |
| PERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles | | |
| STREET ADDRESS: 300 E. Walnut Blvd. | | |
| MAILING ADDRESS: Same as above | | |
| CITY AND ZIP CODE: Pasadena, CA 91101 | | |
| BRANCH NAME: Northeast District | | |
| | | |
| PETITIONER/PLAINTIFF: Janet Hurren | 1 | |
| ESPONDENT/DEFENDANT: Colin Hurren | | |
| ESPONDENT/DEFENDANT. COTTIL MALICA | | , ·· |
| OTHER PARENT: | | |
| PROOF OF SERVICE BY MAIL | CASE NUMBER: GD 040122 | ٠. |
| PROOF OF SERVICE DT MAIL | GD 040122 | |
| My residence or business address is: 201 S. Lake Avenue, S. | Suite 700, Pasadena, CA 91101 | |
| My residence or business address is: 201 S. Lake Avenue, S. | | |
| My residence or business address is: 201 S. Lake Avenue, S. | eredith Manker and Ronald Supand | cio |
| My residence or business address is: 201 S. Lake Avenue, S | eredith Manker and Ronald Supand | cio |
| My residence or business address is: 201 S. Lake Avenue, S | eredith Manker and Ronald Supand | cic |
| My residence or business address is: 201 S. Lake Avenue, S | eredith Manker and Ronald Supand | cio |
| My residence or business address is: 201 S. Lake Avenue, S. I served a copy of the following documents (specify): Letter to Me regarding client's settlement offer, Declarations of the company of the following documents (specify): Letter to Me regarding client's settlement offer, Declarations of the company of the company of the following documents (specify): Letter to Me regarding client's settlement offer, Declarations of the company of the company of the following documents (specify): Letter to Me regarding client's settlement offer, Declarations of the company of the | eredith Manker and Ronald Supand tion of Kenneth Walheim | cic |
| My residence or business address is: 201 S. Lake Avenue, S | eredith Manker and Ronald Supand tion of Kenneth Walheim Service with the postage fully prepaid. I at the place shown in item 4 following our ordinary actice for collecting and processing correspondence effection and mailing, it is deposited in the ordinary of the continuation of the | / e for |
| I served a copy of the following documents (specify): Letter to Me regarding client's settlement offer, Declarated by enclosing them in an envelope AND a depositing the sealed envelope with the United States Postal States placing the envelope for collection and mailing on the date and business practices. I am readily familiar with this business's pramailing. On the same day that correspondence is placed for concept business with the United States Postal Service in a sealed envelope was addressed and mailed as follows: a. Name of person served: Meredith Manker and Ronald b. Address: 5959 Topanga Canyon Blvd., Suite 37 | Service with the postage fully prepaid. If at the place shown in item 4 following our ordinary actice for collecting and processing correspondence elope with postage fully prepaid. Supancic, Attorneys at Law 75, Woodland Hills, CA 91367 | / e for |
| I served a copy of the following documents (specify): Letter to Me regarding client's settlement offer, Declarated by enclosing them in an envelope AND a depositing the sealed envelope with the United States Postal States placing the envelope for collection and mailing on the date and business practices. I am readily familiar with this business's pramailing. On the same day that correspondence is placed for compusiness with the United States Postal Service in a sealed envelope was addressed and mailed as follows: a. Name of person served: Meredith Manker and Ronald b. Address: 5959 Topanga Canyon Blvd., Suite 37 c. Date mailed: 1/17/08 VIA 1ST CLASS MESSENGER d. Place of mailing (city and state): Pasadena, CA | Service with the postage fully prepaid. If at the place shown in item 4 following our ordinary actice for collecting and processing correspondence elope with postage fully prepaid. Supancic, Attorneys at Law 75, Woodland Hills, CA 91367 | / e for |
| I served a copy of the following documents (specify): Letter to Me regarding client's settlement offer, Declarated by enclosing them in an envelope AND a depositing the sealed envelope with the United States Postal States placing the envelope for collection and mailing on the date and business practices. I am readily familiar with this business's pramailing. On the same day that correspondence is placed for compusion business with the United States Postal Service in a sealed envelope was addressed and mailed as follows: a. Name of person served: Meredith Manker and Ronald b. Address: 5959 Topanga Canyon Blvd., Suite 37 c. Date mailed: 1/17/08 VIA 1ST CLASS MESSENGER d. Place of mailing (city and state): Pasadena, CA | Service with the postage fully prepaid. If at the place shown in item 4 following our ordinary actice for collecting and processing correspondence elope with postage fully prepaid. Supancic, Attorneys at Law 75, Woodland Hills, CA 91367 | / e for |
| I served a copy of the following documents (specify): Letter to Me regarding client's settlement offer, Declarated by enclosing them in an envelope AND a depositing the sealed envelope with the United States Postal States placing the envelope for collection and mailing on the date and business practices. I am readily familiar with this business's pramailing. On the same day that correspondence is placed for comparison business with the United States Postal Service in a sealed envelope was addressed and mailed as follows: a. Name of person served: Meredith Manker and Ronald b. Address: 5959 Topanga Canyon Blvd., Suite 37 c. Date mailed: 1/17/08 VIA 1ST CLASS MESSENGER d. Place of mailing (city and state): Pasadena, CA | Service with the postage fully prepaid. If at the place shown in item 4 following our ordinary actice for collecting and processing correspondence elope with postage fully prepaid. Supancic, Attorneys at Law 75, Woodland Hills, CA 91367 | / e for |

Form Approved for Optional Use Judicial Council of California FL-335 [Rev. January 1, 2003]

PROOF OF SERVICE BY MAIL

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INFORMATION SHEET FOR PROOF OF SERVICE BY MAIL

Use these instructions to complete the Proof of Service by Mail (form FL-335).

A person at least 18 years of age or older must serve the documents. There are two ways to serve documents: (1) personal delivery and (2) by mail. See the *Proof of Personal Service* (form FL-330) if the documents are being personally served. The person who serves the documents must complete a proof of service form for the documents being served. You cannot serve documents if you are a party to the action.

INSTRUCTIONS FOR THE PERSON WHO SERVES THE DOCUMENTS (TYPE OR PRINT IN BLACK INK)

You must complete a proof of service for each package of documents you serve. For example, if you serve the Respondent and the Other Parent, you must complete two proofs of service, one for the Respondent and one for the Other Parent.

Complete the top section of the proof of service forms as follows:

First box, left side: In this box print the name, address, and phone number of the person for whom you are serving the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. Use the same address for the court that is on the documents you are serving.

Third box, left side: Print the names of the Petitioner/Plaintiff, Respondent/Defendant, and Other Parent in this box. Use the same names listed on the documents you are serving.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. This number is also stated on the documents you are serving.

You cannot serve a temporary restraining order by mail. You must serve those documents by personal service.

- 1. You are stating that you are at least 18 years old and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
- 2. Print your home or business address.
- 3. List the name of each document that you mailed (the exact names are listed on the bottoms of the forms).
 - a. Check this box if you put the documents in the regular U.S. mail.
 - b. Check this box if you put the documents in the mail at your place of employment.
- 4. a. Print the name you put on the envelope containing the documents.
 - b. Print the address you put on the envelope containing the documents.
 - c. Write in the date that you put the envelope containing the documents in the mail.
 - d. Write in the city and state you were in when you mailed the envelope containing the documents.
- 5. You are stating under penalty of perjury that the information you have provided is true and correct.

Print your name, fill in the date, and sign the form.

If you need additional assistance with this form, contact the Family Law Facilitator in your county.

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DISS STK (REV 03/2007)

State of California Secretary of State

DISS STK

in the office of the Secretary of State of the State of California

OCT 0 8 2008

This Space For Filing Use Only

APPROVED BY SECRETARY OF STATE

DOMESTIC STOCK CORPORATION CERTIFICATE OF DISSOLUTION

3

There is no fee for filing a Certificate of Dissolution.

IMPORTANT - Read instructions before completing this form.

| CORPORATE NAME (Enter the name of the domestic stock corporation exactly | as it is of record with the California Secretary of State.) |
|---|---|
| Name of corporation BERGER MEDICAL CORPORATION | |
| REQUIRED STATEMENTS (The following statements are required by statute a | nd should not be altered.) |
| A final franchise tax return, as described by Section 23332 of the Rev Tax Board, as required under Part 10.2 (commencing with Section 184). | enue and Taxation Code, has been or will be filed with the Franchise 01) of Division 2 of the Revenue and Taxation Code. |
| b) The corporation has completely wound up. | |
| c) The corporation is dissolved. | |
| DEBTS & LIABILITIES (Check the applicable statement. Note: Only one box ma | ay be checked.) |
| 3. The corporation's known debts and liabilities have been actually paid. | |
| The corporation's known debts and liabilities have been paid as far as | s its assets permitted. |
| The corporation's known debts and liabilities have been adequately assumer is | provided for by their assumption and the name and address of the |
| The corporation's known debts and liabilities have been adequately p (Specify in an attachment to this certificate (incorporated herein by this re governmental agency that has assumed or guaranteed the payment, or the ninformation necessary to enable creditors or others to whom payment is to be | ference) the provision made and the address of the corporation, person of ame and address of the depositary with which deposit has been made or other |
| The corporation never incurred any known debts or liabilities. | |
| ASSETS (Check the applicable statement. Note: Only one box may be checked.) | |
| 4. The known assets have been distributed to the persons entitled there | to. |
| The corporation never acquired any known assets. | |
| ELECTION (Check the "YES" or "NO" box, as applicable. Note: If the "NO" be Corporations Code section 1901 must be filed prior to or together with this Certificate of | ox is checked, a Certificate of Election to Wind Up and Dissolve pursuant to f Dissolution.) |
| 5. The election to dissolve was made by the vote of all the outstanding share | |
| VERIFICATION & EXECUTION (If additional signature space is necessary, to certificate. Any attachments to this certificate are incorporated herein by this reference | he dated signature(s) with verification(s) may be made on an attachment to this |
| 6. The undersigned constitute(s) the sole director or a majority of the direct the State of California that the matters set forth in this certificate are true | ors now in office. I declare under penalty of perjury under the laws of |
| Date Date | COLINITIEDEN |
| | COLIN HURREN Type or Print Name of Director |
| Signature of proctor | Type of Fillit Hairie of Billette. |
| Signature of Director | Type or Print Name of Director Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 10, 2009 |
| Signature of Director | Type or Print Name of Director Page 152 |

6264807260

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1521 W. Cameron Ave., Suite 300, West Covins, CA 91790-2738 P. O. Box 1500, West Covins, CA 91793-1500 Telephone (625) 480-7250 Fax (526) 480-7260 www.bos.ca.gov GETTY T. YEE First Classics, San Francisco

BELL LEONARD Second District, Ontario/Socramento

MICHELLE STEEL Third District, Rolling Hills Estates

> JUDY CHU, Ph.D. Fourth District, Los Angeles

> > JOHN CHIANG Sinte Controller

December 10, 2008

RAMON J. HIRSIG

Jeannette Martello, M.D., J.D. 701 Fremont Avenue South Pasadena, CA 91030

Re: Verification of Seller's Permit Information

Ms. Jeannette Martello, M.D., J.D.:

This office received your fax dated 12/3/2008 where you are requesting information on if a particular business has a Seller's Permit. To answer your request, I am providing the following public information:

- Scarch of our database this date does not show an active Seller's Permit for a business located at 425 S. Fair Oaks Ave. Pasadena, CA 91105.
- 2. Search of our database this date does not show an active Seller's Permit for a business located at 16030 Ventura Blvd. Suite 150, Encino, CA 91436.
- Scarch of our database this date does not show an active Sciler's Permit for a business located at 1808 Verdugo Blvd. Suite 118, Glendale, CA 91208.
- Search of our database this date does not show an active Seller's Permit for Skin Deep Laser Med Spa, Skin Deep Laser med Spa, Inc., ACM Enterprises, Inc or Berger Medical Corporation.

California Civil Code 1798.69 prohibits the Board from releasing the names and addresses of individuals who are registered with, or are holding licenses or permits issued by, the State Board of Equalization except to the extent necessary to verify resale certificate or to administer the tax and fee provisions of the Revenue and Taxation Code. If you have a seller's pennit number for an individual business owner and you would like to verify its validity, you may verify it on the Board's web-site at www.boe.ca.gov by entering the seller's permit number or you may call our information center at 800-735-2929.

In your letter you are also asking if a seller's permit can be used for another location, if a separate seller's permit is needed for each location, or if a seller's permit can be assigned or transferred. Please see attached Sales and Use Tax Regulation 1699. Permits. 1699 (a) states in general, every person engaged in the business of selling tangible personal property is required to hold a permit for each place of business in this state at which transactions relating to sales are customarily negotiated with his or her customers. A Seller's Permit is issued to a specific person making sales at specific location. It can not be assigned or transferred. If a business has more than one location, and the nature of each business is the same, a "master" permit will be issued and a "sub" location permit will be issued for each sub location.

If I can be of further assistance, please contact me at (626) 480-7230.

Sincerely,

Charles Cao
Business Taxes Compliance Specialist
West Covina Office

Enclosed: Publication 1699

State of California BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1699. PERMITS

Reference: Sections 6068-6075, Revenue and Taxation Code.

(a) IN GENERAL — NUMBER OF PERMITS REQUIRED. Every person engaged in the business of selling (or leasing under a lease defined as a sale in Revenue and Taxation Code section 6006(g)) tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and only a person actively so engaged, is required to hold a permit for each place of business in this state at which transactions relating to sales are customarily negotiated with his or her customers. For example:

A permit is required for a branch sales office at which orders are customarily taken or contracts negotiated, whether or not merchandise is stocked there.

No additional permits are required for warehouses or other places at which merchandise is merely stored and which customers do not customarily visit for the purpose of making purchases and which are maintained in conjunction with a place of business for which a permit is held; but at least one permit must be held by every person maintaining stocks of merchandise in this state for sale. However, permits are required for warehouses or other places at which merchandise is stored and from which retail sales of such merchandise negotiated out of state are delivered or fulfilled.

If two or more activities are conducted by the same person on the same premises, even though in different buildings, only one permit is required. For example:

A service station operator having a restaurant in addition to the station on the same premises requires only one permit for both activities.

- (b) PERSONS SELLING IN INTERSTATE COMMERCE OR TO UNITED STATES GOVERNMENT. A permit is not required to be held by persons all of whose sales are made exclusively in interstate or foreign commerce but a permit is required of persons notwithstanding all their sales (or leases under a lease defined as a sale in Revenue and Taxation Code section 6006(g)) are made to the United States or instrumentalities thereof.
- (c) PERSONS SELLING FEED. Effective April 1, 1996, a permit is not required to be held by persons whose sales consist entirely of sales of feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption (food animals), or for any form of animal life not of such a kind (nonfood animals) which are being held for sale in the regular course of business, provided no other retail sales of tangible personal property are made.

If a seller of hay is also the grower of the hay, this exemption shall apply only if either:

- 1. The hay is produced for sale only to beef cattle feedlots or dairies, or
- 2. The hay is sold exclusively through a farmer-owned cooperative.
- (d) CONCESSIONAIRES. For the purposes of this regulation, the term concessionaire is defined as an independent retailer who is authorized, through contract with, or permission of, another retail business enterprise (the prime retailer), to operate within the perimeter of the prime retailer's own retail business premises, which to all intents and purposes appear to be wholly under the control of that prime retailer, and to make retail sales that to the general public might reasonably be believed to be the transactions of the prime retailer. Some indicators that a retailer is not operating as a concessionaire are that he or she:
 - Appears to the public to be a business separate and autonomous from the prime retailer. Examples of
 businesses that may appear to be separate and autonomous, while operating within the prime retailer's
 premises, are those with signs posted on the premises naming each of such businesses, those with
 separate cash registers, and those with their own receipts or invoices printed with their business name.
 - Maintains separate business records, particularly with respect to sales.

Regulation 1699. (Cont.)

- Establishes his or her own selling prices.
- Makes business decisions independently, such as hiring employees or purchasing inventory and supplies.
- Registers as a separate business with other regulatory agencies, such as an agency issuing business licenses, the Employment Development Department, and/or the Secretary of State.
- Deposits funds into a separate account.

In cases where a retailer is not operating as a concessionaire, the prime retailer is not liable for any tax liabilities of the retailer operating on his or her premises. However, if a retailer is deemed to be operating as a concessionaire, the prime retailer may be held jointly and severally liable for any sales and use taxes imposed on unreported retail sales made by the concessionaire while operating as a concessionaire. Such a prime retailer will be relieved of his or her obligation for sales and use tax liabilities incurred by such a concessionaire for the period in which the concessionaire holds a permit for the location of the prime retailer or in cases where the prime retailer obtains and retains a written statement that is taken in good faith in which the concessionaire affirms that he or she holds a seller's permit for that location with the Board. The following essential elements must be included in the statement in order to relieve the prime retailer of his or her liability for any unreported tax liabilities incurred by the concessionaire:

- The permit number of the concessionaire
- The location for which the permit is issued (must show the concessionaire's location within the perimeter of the prime retailer's location)
- Signature of the concessionaire
- Date

While any statement, taken timely, in good faith and containing all of these essential elements will relieve a prime retailer of his or her liability for the unreported sales or use taxes of a concessionaire, a suggested format of an acceptable statement is provided as Appendix A to this regulation. While not required, it is suggested that the statement from the concessionaire contain language to clarify which party will be responsible for reporting and remitting the sales and/or use tax due on his or her retail sales.

In instances where the lessor, or grantor of permission to occupy space, is not a retailer himself or herself, he or she is not liable for any sales or use taxes owed by his or her lessee or grantee. In instances where an independent retailer leases space from another retailer, or occupies space by virtue of the granting of permission by another retailer, but does not operate his or her business within the perimeter of the lessor's or grantor's own retail business, such an independent retailer is not a concessionaire within the meaning of this regulation. In this case, the lessor or grantor is not liable for any sales or use taxes owed by the lessee or grantee.

- (e) AGENTS. If agents make sales on behalf of a principal and do not have a fixed place of business, but travel from house to house or from town to town, it is unnecessary that a permit be obtained for each agent if the principal obtains a permit for each place of business located in California. If, however, the principal does not obtain a permit for each place of business located in California, it is necessary for each agent to obtain a permit.
- (f) INACTIVE PERMITS. A seller's permit may only be held by a person actively engaged in business as a seller of tangible personal property. The Board may revoke a seller's permit where it finds that the person holding the permit is not actively engaged in business as a seller of tangible personal property.
- (1) Any person who holds a seller's permit but is not actively engaged in business as a seller of tangible personal property shall promptly surrender the permit by notifying the Board to cancel it.
- (2) Except as explained in paragraph (3) of this subdivision, a person holding a seller's permit will be held liable for any taxes, interest, and penalties incurred, through the date on which the Board is notified to cancel the permit, by any other person who, with the permit holder's actual or constructive knowledge, uses the permit in any way. For example, a permit holder may be held liable for tax, interest, and penalty actually incurred by his or her transferee where the transferee displays the permit in his or her place of business, or uses the permit number on a resale certificate, or files sales and use tax returns under the permit number. The permit holder has the burden of establishing that the Board received notice to cancel the permit.
- (A) The permit holder may notify the Board by delivering the actual seller's permit to the Board with the clear request that the permit be canceled. Where the reason for cancellation is that the permit holder transferred the business, the permit holder should identify the name and address of the transferee at the time the permit is surrendered to the Board. The permit holder may also notify the Board by delivering a written statement or email to

Regulation 1699. (Cont.)

the Board that the permit holder has transferred or otherwise ceased the business, or will do so at a specified time, and requesting that the permit be canceled. The statement should identify the name and address of the transferee, if any. The permit holder may also provide this notice to the Board orafly, but it will be presumed that such notice was not provided unless the Board's records reflect that the permit holder clearly notified the Board of the cessation or transfer of the business for which the permit was held.

- (B) The Board will also be regarded as having received notice of cancellation of the permit, and the permit holder will be excused from liability for the tax, interest, and penalty incurred by another person using the permit, as of the date the Board receives actual notice of transfer of the business for which the permit was issued. It will be presumed such notice was not received by the Board unless the Board's records reflect that the Board received a clear notice of the cessation or transfer of the business for which the permit was held. For example, the Board's receipt of an application for a seller's permit from the transferee constitutes sufficient notice if it contains adequate information to show that the application pertains to the same business for which the permit was held. Notice to another state agency of a transfer or cessation of a business does not constitute notice to the Board. Rather, the Board must itself receive actual notice of the transfer or cessation of business.
- (3) Where the permit holder does not establish that the Board received actual notice of the transfer of the business for which the permit was held and is thus liable for the taxes, interest, and penalties incurred by another person using that permit, that liability is limited to the quarter in which the business was transferred and the three subsequent quarters, and shall not include any penalties imposed on the other person for fraud or intent to evade the tax. However, these limitations (liability only for the quarter in which the business was transferred and the three subsequent quarters and no fraud or intent to evade penalty) do not apply where, after the transfer of the business, 80 percent or more of the real or ultimate ownership of that business is held by the permit holder. For these purposes, stockholders, bondholders, partners, or other persons holding an ownership interest in an entity are regarded as having the "real or ultimate ownership" of that entity.
- (g) DUE DATE OF RETURNS CLOSEOUT OF ACCOUNT ON YEARLY REPORTING BASIS. Where a person authorized to file tax returns on a yearly basis transfers the business to another person or discontinues it before the end of the yearly period, a closing return shall be filed with the Board on or before the last day of the month following the close of the calendar quarter in which the business was transferred or discontinued.

(h) BUYING COMPANIES - GENERAL.

- (1) DEFINITION. For the purpose of this regulation, a buying company is a legal entity that is separate from another legal entity that owns, controls, or is otherwise related to, the buying company and which has been created for the purpose of performing administrative functions, including acquiring goods and services, for the other entity. It is presumed that the buying company is formed for the operational reasons of the entity which owns or controls it or to which it is otherwise related. A buying company formed, however, for the sole purpose of purchasing tangible personal property ex-tax for resale to the entity which owns or controls it or to which it is otherwise related in order to re-direct local sales tax from the location(s) of the vendor(s) to the location of the buying company shall not be recognized as a separate legal entity from the related company on whose behalf it acts for purposes of issuing it a seller's permit. Such a buying company shall not be issued a seller's permit. Sales of tangible personal property to third parties will be regarded as having been made by the entity owning, controlling, or otherwise related to the buying company. A buying company that is not formed for the sole purpose of so re-directing local sales tax shall be recognized as a separate legal entity from the related company on whose behalf it acts for purposes of issuing it a seller's permit. Such a buying company shall be issued a seller's permit and shall be regarded as the seller of tangible personal property it sells or leases.
- (2) ELEMENTS. A buying company is not formed for the sole purpose of re-directing local sales tax if it has one or more of the following elements:
- (A) Adds a markup to its cost of goods sold in an amount sufficient to cover its operating and overhead expenses.
 - (B) Issues an invoice or otherwise accounts for the transaction.

The absence of any of these elements is not indicative of a sole purpose to redirect local sales tax.

(i) WEB SITES. The location of a computer server on which a web site resides may not be issued a seller's permit for sales tax purposes except when the retailer has a proprietary interest in the server and the activities at that location otherwise qualify for a seller's permit under this regulation.

Regulation 1699. (Cont.)

History: Effective July 1, 1939.

Adopted as of January 1, 1945, as a restatement of previous rulings.

Amended August 2, 1965, applicable on and after August 1, 1965.

Amended and renumbered November 3, 1969, effective December 5, 1969.

Amended May 25, 1977, effective June 24, 1977.

Amended May 1, 1985, effective May 31, 1985. Subdivision (e)(2) has been changed to provide that penalties for intent to evade the tax are excluded from the type of penalty the permit holder would be liable for if the permit holder fails to notify the Board of the transfer of a

Amended June 22, 1995, effective July 22, 1995. Amended subdivision (e) as provided in Statutes of 1993, Chapter 1109.

Amended April 25, 1996, effective May 25, 1996. Added new (c) to incorporate provisions of Chapter 696, Statutes of 1995 and renumbered the following subdivisions.

Amended May 30, 2001, effective September 7, 2001. Subdivision (d)—Existing language deleted—Four new unnumbered paragraphs added to define "concessionaire" and clarify the relationship between concessionaire and prime retailer. New Appendix A was added to provide a suggested form for the Certification of Permit-Concessionaire.

Amended February 6, 2002, effective June 14, 2002. Subdivisions (h) and (i) added.

Amended November 15, 2005, effective December 13, 2006. Added sentence to subdivision (a) to explain that permits are required for locations at which merchandise is stored when the retailer negotietes sales out of state but fulfills such sales from stocks of goods inceted in this state.

Amended November 15, 2007, effective February 23, 2008, Amended subdivision (f) to clarify the methods for notifying the Board when a seller's permit becomes inactive. The amendments also explain the limitation on predecessor's liability set forth in Revenue and Taxation Code section 6071.1 and make it clear that the fraud penalty can be imposed on a predecessor when the ownership of the successor who committed fraud is substantially the same as the predecessor ownership.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.

Appendix A

Certification of Permit - Concessionaires

i certify that I operate an independent business at the premises of the following retailer and that I hold a valid selfer's permit to operate at this location, as noted below. I further understand that I will be solely responsible for reporting all sales that I make on those premises and remitting all applicable sales and use taxes due to the Board of Equalization:

Name of retailer on whose premises I operate my business:

Location of premises:

I hereby certify that the foregoing information is accurate and true to the best of my knowledge:

Certifier's Signature:

Certifier's Printed Name:

Certifier's Permit Number:

Certifier's Business Name and Address:*

Certifier's Telephone Number:

* Please Note:

The certifier *must* be registered to do business at the location of the retailer upon whose premises he or she is making retail sales.

SKIN DEEP LASER M 425 SOUTH FAIROAKS PASADENA, CA 91105 (626) 449-8873

Sale

Merchant ID: 542929801160490

Term ID: LK354572

12/81/98 16:35:59 Batch#: 060306 Inv #: 090008

MASTERCARD Entry Method: S

XXXXXXXXXXXXXX016

Seq. N: 9008 Appr Code: 912441
Total: \$ 64.95

APPROVED

Customer Copy

Skin Deep Laser Med Spa

425 S. Fair Oaks Pasadena, CA 91105 (626) 449-8873 Receipt #: 13 12/01/2008 04:34 PM

Operator Liza Retail Products SkinLight TouchStick #1277 <u>Client</u> Nadine Tomala Quantity 1 <u>List</u> \$60.00 Discount \$0.00 Price \$60.00

 Payments
 Description
 Client
 Amount

 Subtotal:
 \$60.00

 Tax:
 \$4.95

 Total:
 \$64.95

 Payment:
 \$0.00

 Change:
 (\$64.95)

Products may be returned up to 14 days after sale. No Refunds on purchases of Packages.



United States Patent and Trademark Office

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SKIN DEEP LASER MEDSPA

Word Mark

SKIN DEEP LASER MEDSPA

Goods and Services

IC 044. US 100 101. G & S: International Class 044: Providing cosmetic medical treatments namely laser hair removal, wrinkle correction therapies, removal of birthmarks, spider veins, tattoos, hand and facial skin rejuvenation, acne treatments all supervised by

licensed medical staff. FIRST USE: 20030901. FIRST USE IN COMMERCE: 20040123

Standard Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number 78569772

Filing Date

February 17, 2005

Current Filing

Original Filing

1A

Basis Owner

Basis

(APPLICANT) ACM Enterprises, Inc DBA Skin Deep Laser Med Spa CORPORATION Cancellation No. 92044697

CALIFORNIA 1981 New York Drive Altadena CALIFORNIA 91001

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Attorney of Record **Disclaimer**

David Hong

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LASER MEDSPA" APART

FROM THE MARK AS SHOWN

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Live/Dead

Indicator

LIVE

SEARCHOG

| HOME | SITE INDEX | SEARCH | BUSINESS | HELP | PRIVACY POLICY

- (b) The medical staff bylaws shall not interfere with the independent rights of the medical staff to do any of the following, but shall set forth the procedures for:
 - (1) Selecting and removing medical staff officers.
- (2) Assessing medical staff dues and utilizing the medical staff dues as appropriate for the purposes of the medical staff.
- (3) The ability to retain and be represented by independent legal counsel at the expense of the medical staff.
- (c) With respect to any dispute arising under this section, the medical staff and the hospital governing board shall meet and confer in good faith to resolve the dispute. Whenever any person or entity has engaged in or is about to engage in any acts or practices that hinder, restrict, or otherwise obstruct the ability of the medical staff to exercise its rights, obligations, or responsibilities under this section, the superior court of any county, on application of the medical staff, and after determining that reasonable efforts, including reasonable administrative remedies provided in the medical staff bylaws, rules, or regulations, have failed to resolve the dispute, may issue an injunction, writ of mandate, or other appropriate order. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.
- 2283. The regular practice of medicine in a licensed general or specialized hospital having less than five physicians and surgeons on the medical staff, which does not have rules established by the board of directors thereof to govern the operation of the hospital, which rules include, among other provisions, all of the following, constitutes unprofessional conduct:
- (a) Provision that membership on the medical staff shall be restricted to physicians and surgeons and other licensed practitioners competent in their respective fields and worthy in professional ethics. In this respect the division of profits for professional fees in any manner shall be prohibited and any such division shall be cause for exclusion from the staff.
- (b) Provision that adequate and accurate medical records be prepared and maintained for all patients.
- 2284. (a) A licensed physician and surgeon or a licensed podiatrist, or a group of physicians and surgeons or podiatrists, or a medical or podiatry corporation shall not share in any fee charged by an acupuncturist or receive any consideration from or on behalf of such acupuncturist for any referral or diagnosis.
- (b) A licensed physician and surgeon or podiatrist shall not employ more than one acupuncturist.
- (c) A group of physicians and surgeons or podiatrists, or a medical or podiatry corporation, shall not employ more than one acupuncturist for every 20 practitioners in such group or corporation.
- 2285. The use of any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjunction with a partnership or group, or as the name of a professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without a fictitious-name permit obtained pursuant to Section 2415 constitutes unprofessional conduct. This section shall not apply to the following:

- (a) Licensees who are employed by a partnership, a group, or a professional corporation that holds a fictitious name permit.
- (b) Licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.
- (c) An outpatient surgery setting granted a certificate of accreditation from an accreditation agency approved by the medical board.
- (d) Any medical school approved by the division or a faculty practice plan connected with the medical school.
- 2286. It shall constitute unprofessional conduct for any licensee to violate, to attempt to violate, directly or indirectly, to assist in or abet the violation of, or to conspire to violate any provision or term of Article 18 (commencing with Section 2400), of the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or of any rules and regulations duly adopted under those laws.
- 2287. The purchase, sale, or barter, or offering to purchase, sell, or barter any medical or podiatric degree, or any degree, diploma, certificate, affidavit, transcript, or other evidence made or purporting to be made, pursuant to any laws regulating the licensure of persons under this chapter, or any preceding medical practice act or for use in connection with the granting of any certificates or diplomas or the purchase, procurement, or altering in any material regard, with fraudulent intent, a diploma, certificate, affidavit, transcript, or other evidence required for issuing any certificate or diploma that has been purchased, fraudulently issued, counterfeited, or materially altered constitutes unprofessional conduct. The attempt to or conspiring to violate this section also constitutes unprofessional conduct.
- 2288. The impersonation of any applicant or acting as proxy for any applicant in any examination required under this chapter for a certificate constitutes unprofessional conduct.
- 2289. The impersonation of another licensed practitioner or permitting or allowing another person to use his or her certificate to engage in the practice of medicine or podiatric medicine constitutes unprofessional conduct.
- 2290. The provisions of Article 4 (commencing with Section 580) of Chapter 1, relating to frauds of medical records, degrees, diplomas, certificates, and transcripts are not affected by the provisions of this article and, so far as any act is a crime within their scope, such provisions control over the provisions of this article.
- 2290.5. (a) (1) For the purposes of this section, "telemedicine"



constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a licensee under this chapter.

- 2411. Notwithstanding any other provision of law, the offering and operation by a medical corporation of a health care service plan licensed pursuant to the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code is hereby authorized. For such purpose a medical corporation may employ, or enter into contracts or other arrangements with, any person or persons authorized to practice any of the healing arts, but no such employment, contract, or arrangement shall provide for the rendering, supervision, or control of professional services other than as authorized by law.
- 2412. The Division of Licensing may adopt and enforce regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act including regulations requiring (a) that the bylaws of a medical or podiatry corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a medical or podiatry corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.
- 2413. This article shall apply to medical **corporations** which have physicians and surgeons licensed by the Osteopathic Medical Board of California as shareholders, officers, and directors only to the extent that this article is not in conflict with or inconsistent with Section 2454.
- 2415. (a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.
- (b) The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that:
- (1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons or doctors of podiatric medicine, as the case may be.
- (2) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.
 - (3) The name under which the applicant or applicants propose to

WAIS Document Retrieval Page 5 of 6

practice is not deceptive, misleading, or confusing.

(c) Each permit shall be accompanied by a notice that shall be displayed in a location readily visible to patients and staff. The notice shall be displayed at each place of business identified in the permit.

- (d) This section shall not apply to licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety **Code** or any medical school approved by the division or a faculty practice plan connected with that medical school.
- (e) Fictitious-name permits issued under this section shall be subject to Article 19 (commencing with Section 2420) pertaining to renewal of licenses, except the division shall establish procedures for the renewal of fictitious-name permits every two years on an anniversary basis. For the purpose of the conversion of existing permits to this schedule the division may fix prorated renewal fees.
- (f) The division or the board may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.
- (g) A fictitious-name permit issued to any licensee in a sole practice is automatically revoked in the event the licensee's certificate to practice medicine or podiatric medicine is revoked.
- (h) The division or the board may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.
- (i) The California Board of Podiatric Medicine shall administer and enforce this section as to doctors of podiatric medicine and shall adopt and administer regulations specifying appropriate podiatric medical name designations.
- 2416. Physicians and surgeons and doctors of podiatric medicine may conduct their professional practices in a partnership or group of physician and surgeons or a partnership or group of doctors of podiatric medicine, respectively. Physician and surgeons and doctors of podiatric medicine may establish a professional partnership that includes both physician and surgeons and doctors of podiatric medicine, if both of the following conditions are satisfied:
- (a) A majority of the partners and partnership interests in the professional partnership are physician and surgeons or osteopathic physician and surgeons.
- (b) Notwithstanding Chapter 2 (commencing with Section 15001) of Title 1 of the Corporations Code, a partner who is not a physician and surgeon shall not practice in the partnership or vote on partnership matters related to the practice of medicine that are outside his or her scope of practice. All partners may vote on general administrative, management, and business matters.
- 2417. (a) If the Department of Insurance has evidence that a business is being operated in violation of this chapter, Part 4 (commencing with Section 13400) of Division 3 of the Corporations Code, or Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, and that the business may be in violation of Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code, then the department shall report the business, and any

Cancellation No. 92044697

March 10, 2009 Page 168

Exhibits-Motion for Summary Judgment

WELCOME TO

THE MEDICAL BOARD OF CALFORNIA

Home -> Licensee -> Fictitious Name Questions

Fictitious Name Permit - Frequently Asked Questions

- When do I need a fictitious name permit?
- When do I not need a fictitious name permit?
- Are there specific name style requirements for fictitious name permits?
- What is the fee?
- How do I get a copy of my fictitious name permit?
- How do I renew my current permit?
- Are words allowed that are not in English?
- When choosing a fictitious name, what are some tips to increase the chance of the name being approved?
- Orice Lapply for and receive my fictitious name permit, are there any other permits or certificates of registration that are required from the Medical Board? If an FNP is issued by the Medical Board, am I still required to file for a fictitious name with my local county and city agencies?
- Can you have more than one location for each FNP?
- Is there a limit as to how many FNPs a physician may own?
- How can the fictitious name be changed?
- is the FNP transferable if a medical practice is purchased by another physician?
- 3,765,7 Can shareholders or prtners be added or deleted from the permit?
 - Can an osteopath be issued an FNP by the Medical Board?
 - Can a lay person be an owner or partial owner of an FNP?
- What type of corporation is necessary to meet the requirements for an FNP?
- Are Limited Liability Partnerships (LLPs) and Limited Liability Corporations (LLCs) allowed?
- Who can form a partnership with a physician to practice medicine?
- Does a non-profit corporation meet the requirements for an FNP?
- If I apply as a corporation, do I need to incorporate with the Secretary of State before I apply for my FNP?
- If I receive my corporate name from the Secretary of State and plan on advertising under the same fictitions name, do I still need to get an FNP from the Medical Board?
 - Do I need to inform the Medical Board if I amend my corporate name at a future time? Do I need an ENP for my corporate name if I receive a corporate name from the Secretary of State and will not advertise with that name?
- Who can be an owner of a professional medical corporation?
- How long will it take to get a fictitious name permit?
- Does it speed up the review process if I hand deliver the application in person?
 - How do I notify the Board of a change of address?
 - What if I decide to cancel my permit?
 - What if I change the way I am doing business? For instance, changing from a sole proprietor to a corporation
 - What if I have paid the renewal fees on my current permit but did not receive a new permit?
 - What should I do if a hold has been placed on my permit?
 - What if I am no longer using the permit and choose not to renew it?
- What happens if my application is reviewed and the proposed name is not available/allowed or other problems are discovered?

- Are there any medical practices that are exempt from needing an FNP?
- If I am advertising under my own name, and want to let the public know what I specialize in, is a fictitious name permit require Can a permit be issued to a physician who is not licensed in California?
- If the physician would like to change his/her own name, is applying for an FNP the correct procedure?
- if a similar fictitious name permit was previously issued by the Board, but is in delinquent status (unpaid renewal fees), is the r
- Does the Board need to be notified if there is an employee change to the permit?
- 36. 37. 39. 40. 41. 43. Does a hospital corporation or surgery center having a Department of Health Services Certification and/or licensure need to o Is it OK to advertise a shortened version of the fictitious name?

Medical Board of California?

1. When do I need a fictitious name permit?

announcement. Example: "Sunrise Medical Group you are a licensed physician and surgeon, or podiatrist, practicing under a fictitious, false or assumed name in any public communication, advertisement, sign or

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2. When do I not need a fictitious name permit?

If only the name or surname (last name) of the physician or podiatrist is used, followed by Medical Doctor, M.D., Podiatrist, Doctor of Podiatric Medicine, D.P.M., Medical Corporation, Medical Corp., Podiatry Corporation, Podiatry Corp., Professional Corporation, Prof. Corp., Corporation, Corp., Incorporated or Inc. Examples: "John Doe Medical Corporation, Medical Corp., Professional Corporation, Prof. Corp., Corporation, Corp., Incorporated or Inc. Examples: "John Doe Medical Corporation, Medical Corp., Professional Corporation, Prof. Corp., Corporation, Corp., Incorporated or Inc. Examples: "John Doe Medical Corporation, Medical Corporation, Prof. C Corporation" or "John Doe, M.D. Inc." would not require a fictitious name permit as long as John Doe matches the legal name on the physician's medical license

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3. Are there specific name style requirements for fictitious name permits?

Res. The proposed name cannot be misleading, deceptive, confusing, or similar to a previously issued name. A doctor of podiatric medicine must include the designation (word) "podiatric," "podiatry," "podiatrist," "foot" or "ankle." (Title 16, Division 13.9, Section 1399.688(b) of the California Code of Regulations.)

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4. What is the fee?

notice automatically will be mailed to the practice address approximately 90 days before the permit expires. A \$50 non-refundable processing fee is required, with a renewal fee of \$40 every two years. The check should be made payable to the Medical Board of California. A renewal

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5. How do I get a copy of my fictitious name permit?

Click on Application for a Duplicate Fictitious Name Permit and download (print) the document. Complete it and mail it along with the fee to the address listed on the application. Or, you may print out an Internet verification of the permit by clicking the License Search for Fictitious Name Permit and downloading (printing) the document.

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6. How do I renew my current permit?

6. How do I renew my current permit expires you will receive a renewal notice in the mail. If you do not receive your notice or have lost the notice, you may use the form C.

expiration date, the total fee would be \$60. If the permit is less than 30 days past the expiration date, the fee would be \$40 required for a total of \$60. To check the status of the permit, click on "License Search for Fictitious Name Permit." If the permit has been expired for more than 30 days past the pproximately 90 days before the permit expires, you will receive a renewal notice in the mail. If you do not receive your notice or have lost the notice, you may use the form itled Fictitious Name Permit Notification of Renewal/Hold/Release. The usual fee is \$40, every two years. If the permit has become delinquent, an additional fee of \$20 is Exhibits-Motion for Summary Judgment March 10, 2009 Page 170

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7. When choosing a fictitious name, what are some tips to increase the chance of the name being approved?

are it has already been issued. Remember, you are competing with physicians not only in your immediate city or county, but the entire state of California. If you already have an for approving a name is that it not be deceptive, misleading, confusing or similar to a name which has already been issued, regardless of who owns the similar name FNP and are applying for a different name, do not attempt a name which is similar to the one you already have for the purpose of public recognition. As stated above, the criteria initials, abbreviations, acronyms, symbols or misspellings. Stay away from names which only contain generic medical words or terms. If the name is unoriginal/common, chances Before selecting a fictitious name, visit our link License Search for Fictitious Name Permit to determine the availability of a fictitious name. Try to avoid names which include

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8. Are words allowed that are not in English?

Yes. Keep in mind that the same name style requirements apply, as stated above. Be sure to include, on a separate attachment, the English translation of all non-English words.

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9. If an FNP is issued by the Medical Board, am I still required to file for a fictitious name with my local county and city agencies?

Contact your local county and city agencies. The Medical Board is a state agency and, as such, cannot provide an answer regarding local requirements. The answer may be

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different, depending upon where the physician is practicing medicine

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10. Once I apply for and receive my fictitious name permit, are there any other permits or certificates of registration that are required from the Medical Board?

No. As long as the physician's medical license is renewed and current, the Board does not require anything further. For questions regarding corporations, contact the Secretary of State at (916) 657-5448. Cancellation No. 92044697 Exhibits-Motion for Summary Judgment

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11. Can you have more than one location for each FNP?

Yes. As long as the fictitious name is exactly the same at each location and the owners notify the Medical Board in writing of each practice address. The Board's data system can only reflect two practice addresses. Additional addresses will be added to the hard copy file.

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12.Is there a limit as to how many FNPs a physician may own?

file for multiple permits under the same corporation No, as long as the names are different from each other. A separate application must be submitted for each fictitious name. Physicians doing business as a corporation also may

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13. How can the fictitious name be changed?

If the new name is similar to the issued name, the current permit must be cancelled and the applicant must reapply for the new name. Complete the forms Application for Cancellation of a Fictitious Name Permit and Fictitious Name Permit Application. Both forms should be mailed at the same time.

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14. Is the FNP transferable if a medical practice is purchased by another physician?

Application. Both forms should be mailed at the same time to assure the name will be available to the new owner. No. The former owner must submit an Application for Cancellation of a Fictitious Name Permit to cancel the permit and the new owner must submit a Fictitious Name Permit

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15. Can shareholders or partners be added or deleted from the permit?

Yes. If there are multiple owners of the permit, and you would like to associate or disassociate shareholders or partners, complete the Fictitious Name Permit Notification of Shareholders Change (if a corporation), or Fictitious Name Permit Notification of Partnership Change (if a partnership) form and mail it to the Medical Board.

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6. Can an osteopath be issued an FNP by the Medical Board?

Yes, but a physician licensed by the Medical Board must own more than 50% of the practice. If the osteopath or any combination of osteopaths owns more than 50%, the permit must be issued by the Osteopathic Medical Board of California. They can be contacted at (916) 263-3100. Cancellation No. \$2044697 Exhibits-Motion for Summary Judgment March 10, 2009

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17. Can a lay person be an owner or partial owner of an FNP?

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18. What type of corporation is necessary to meet the requirements for an FNP?

corporations are allowed the Medical Board can only accept corporations which are formed in California and are professional medical corporations. No out-of-state (foreign), limited liability, or general

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19. Are Limited Liability Partnerships (LLPs) and Limited Liability Corporations (LLCs) allowed?

No. Physicians cannot practice medicine as LLPs or LLCs

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20. Who can form a partnership with a physician to practice medicine?

Physicians may only be partners with other physicians and osteopaths

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21. Does a non-profit corporation meet the requirements for an FNP?

No. Non-profit corporations do not fall under the jurisdiction of the Medical Board. Only professional medical corporations are qualified for FNPs

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22. If I apply as a corporation, do I need to incorporate with the Secretary of State before I apply for my FNP?

should be done after the fictitious name has been issued by the Board. The corporate name may be different from the fictitious name Yes. The Board requires a copy of the Articles of Incorporation to insure that the corporation is active and is a professional medical corporation. If a corporate name is issued by the Secretary of State and is not available as a fictitious name, the physician has the option of amending the corporate name to match the fictitious name. This amendment

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23. If I receive my corporate name from the Secretary of State and plan on advertising under the same fictitious name, do I still need to get an FNP from the Medical

Yes. The approval of the corporate name does not give permission to advertise that name to the public if it is a fictitious name

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24. Do I need an FNP for my corporate name if I receive a corporate name from the Secretary of State and will not advertise with that name?

No. A Fictitious Name Permit is not required as long as the corporate name is not seen by the general public

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25. Do I need to inform the Medical Board if I amend my corporate name at a future time?

No. The Board would only need to be notified if there is a complete change of the corporation. This would only apply to physicians who have an FNP with the Board. Any other corporate matters should be addressed to the Secretary of State. They can be reached at (916) 657-5448.

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26. Who can be an owner of a professional medical corporation?

At least 51% of the shares must be owned by a licensed physician and surgeon. The remaining 49% may be owned by: podiatrists, psychologists, registered nurses, optometrists, marriage and family therapists, clinical social workers, physician assistants, chiropractors, acupuncturists, or naturopathic doctors. The number of these licensed persons cannot exceed the number of physicians and cannot exceed a combined share total of 49%. A lay (unlicensed) person cannot own any shares of a medical corporation.

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27. How long will it take to get a fictitious name permit?

From the time that the application is received, approximately four to six weeks. The Board has no provision to expedite the review of an application. The application must be reviewed in the order in which it was received.

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28. Does it speed up the review process if I hand deliver the application?

No. The application still will be reviewed in the order in which it was received, whether received in the mail or hand delivered.

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29. How do I notify the Board of a change of address?

Complete and mail the form entitled, Fictitious Name Permit-Change of Address Form. The form must be signed by a current owner of the permit.

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30. What if I decide to cancel my permit?

Complete the form entitled, Application for Cancellation of a Fictitious Name Permit. The form must be signed by at least one physician who is recognized by the Board as being current owner. Mail the form to the address listed at the top of the application. There is no fee to cancel the permit

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31. What If I change the way I am doing business? For instance, changing from a sole proprietor to a corporation

You must reapply for a new FNP. Submit an Application for Cancellation of a Fictitious Name Permit to cancel the existing permit and include a Fictitious Name Permit Application to reapply for the new permit. Make sure to mail the two forms together to assure the name will be available.

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2. What if I have paid the renewal fees on my current permit but did not receive a new permit?

You may have had a change of address or failed to complete the renewal form in its entirety. When this happens, the fees still are collected by the cashiering unit but a hold is sometimes placed on the permit. This insures that the new permit is not mailed to an incorrect address and that an unauthorized person has not signed for the renewal of the permit. Please see next question

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What should I do if a hold has been placed on my permit?

Complete and mail to the Board the form entitled, Fictitious Name Permit Notification of Renewal/Hold Release. The form must be signed by a physician who is recognized by the Board as being a current owner

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妈. What if I am no longer using the permit and choose not to renew it?

If the permit is not renewed, it will fall into delinquent status. If the permit has not been renewed for five years, the system is programmed to automatically cancel the permit as required by law. The owner of the permit has the option of submitting an Application for Cancellation of a Fictitious Name Permit at any time. No fee is charged to cancel the permit.

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35. What happens if my application is reviewed and the proposed name is not available/allowed or other problems are discovered?

After the application has been reviewed, the permit will be issued and mailed to the applicant or a notice will be sent indicating deficiencies that need to be corrected for the

to make the corrections on the original applications. You may white out or cross out mistakes; just be sure the application is still legible. Once the corrections have been made and the application has been received by the Board, the permit is usually issued within seven to 10 days. After you speak with the coordinator, alternate names may be faxed for review and the application will be given priority over applications which have not been reviewed. Be sure permit to be approved. If the name is not available, call the FNP coordinator at the phone number provided on the deficiency notice to discuss possible changes in the name.

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36. Are there any medical practices that are exempt from needing an FNP?

laboratories, non-profit organizations, narcotic treatment programs and outpatient surgery settings granted a certificate of accreditation from the following accreditation agencies Yes. Hospitals, medical schools, licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the Department of Health Services, including Healthcare Organizations.' proved by the Medical Board are not required to obtain a fictitious name permit. The four approved accreditation agencies are: "The Institute for Medical Quality, ccreditation Association for Ambulatory Health Care," "American Association for Accreditation of Ambulatory Surgery Facilities, Inc." and "Joint Commission on Accreditation of

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37. If I am advertising under my own name, and want to let the public know what I specialize in, is a fictitious name permit required?

No, as long as the specialty listed is not part of the name you are advertising. Example: JOHN DOE, M.D. (Specializing in Pediatrics) would not require a permit.

M.D. PEDIATRIC SPECIAL TY would require a permit.

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38. Can a permit be issued to a physician who is not licensed in California?

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39. If the physician would like to change his/her own name, is applying for an FNP the correct procedure?

No. The physician should complete the Board's Notification of Name Change application to change his/her name on the medical license.

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40. If a similar fictitious name permit was previously issued by the Board, but is in delinquent status (unpaid renewal fees), is the name available?

No. The current permit must be cancelled before the name can be issued

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41. Does the Board need to be notified if there is an employee change to the permit?

No. The Board only needs to be notified if there is a change of shareholders or partners

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42. Is it OK to advertise a shortened version of the fictitious name?

No. The entire name as it appears on the permit must be on all advertisements and materials seen by the public

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43. Does a hospital corporation or surgery center having a Department of Health Services Certification and/or licensure need to obtain a fictitious name permit from the Medical Board of California?

No. It is not necessary, pursuant to Business and Professions Code section 2285 (b) and (c) and 2415 (d). Only a physician and surgeon or doctor of podiatric medicine who is a sole proprietor, or in a partnership, group, or professional corporation, may obtain a fictitious name permit issued by the Board.

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- Name Search for Fictitious Name Permit
- Common Reasons for Rejection of Fictitious Name Permits
- Application for Cancellation of a Fictitious Name Permit
- Fictitious Name Permit Application
- Fictitious Name Permit Change of Address Form
- Fictitious Name Permit Notification of Renewal/Hold Release

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-> Fictitious Name Permit - Notification of Partnership Change

Fictitious Name Permit - Notification of Shareholder Change

Application for a Duplicate Fictitious Name Permit

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The Bottom Line: The Business of Medicine – Medical Spas

There has been an explosion of cosmetic medicine over the past few years, and many physicians are being approached to "increase their bottom line" by entering into this lucrative field. Recently, our office received a letter from a business promoting the many programs they offered to physicians that contained the following message:

"... Lastly, we are very excited to announce our Medical Director program. This opportunity allows Doctors and Physicians to earn up to \$400 per month per spa in their area. We have several DaySpas that anxiously await a Medical Director and we would anticipate a large number of client referrals to your practice.'....'We would be happy to discuss how they can benefit your practice and grow your bottom line."

This business is offering the opportunity for physicians, for a fee, to rent their license to a business so that the business may engage in the practice of medicine — a profession for which it has no license or qualifications.

Is what this business proposes legal? Can physicians simply sign-on, lend their names on paper to a salon or spa, collect "up to" \$400 a month, and escape any liability or responsibility for the patients treated by the business? NO!

In 2006, Senator Liz Figueroa authored legislation (SB 1423, Chap 873) that directed the medical and nursing boards to work together to study the issue of safety in the use of lasers in cosmetic procedures. Over the past year, the boards have been holding public forums on the subject. What we have learned is that the current law is being violated with impunity by many in the cosmetic medical field.

The current environment gives rise to violations of the laws governing the business of medical practices, including violations of the corporate practice prohibitions, as well as fee-splitting and payment for referrals. The illegal business models give rise to the use of unlicensed or inappropriately licensed personnel, paper-only supervision ("rent-a-license") of allied health professionals, consumer confusion over the medical nature of the procedures, and confusion over who is responsible for the patient. Patients are not fully informed of the risks and often do not know the medical nature of the treatments or who is responsible for their care.

The use of prescriptive medical devices and injections for cosmetic reasons is the practice of medicine:

There is a tendency for the public, and some in the profession, to view laser treatments, Botox and cosmetic filler injections as cosmetic rather than medical treatments. The use of prescriptive drugs and devices, however, is the practice of medicine, and the same laws and regulations apply to these types of treatments as those driven by medical necessity. There are no separate laws governing these procedures, and physicians will be held to the same standard as they are for their routine medical practices. This means that the standards for informed consent, delegation to allied health professionals, physician-patient confidentiality and boundaries, maintaining medical records, as well as responsibility and liability apply to physicians, even those denominated "medical director."

Physician responsibility when delegating procedures to allied health professionals:

In the practice of medicine, physicians routinely delegate functions to allied health professionals. Physicians, however, may only delegate to appropriately licensed staff that they know to be capable of performing the task. Lasers and other prescriptive devices and prescriptive drugs must only be utilized by licensed registered nurses, nurse practitioners, or physician assistants. No unlicensed staff, including medical assistants, may use these devices or drugs, regardless of the level of training or supervision. Likewise, delegation to improperly licensed personnel, such as estheticians, is prohibited.

Supervision of those to whom procedures are being delegated:

While current law allows the delegation of laser treatments and injections to the above mentioned licensees, the law requires supervision by the physician. In the current environment, many have operated under the opinion that since the nursing regulations are broadly written, nurses may perform anything anywhere with essentially no supervision as long as there are "standardized procedures" or "delegation of services" documents on file.

Nurses:

Standardized procedures for nurses allow nurses to perform procedures while the physician is not on-site; however, they do not absolve physicians of their supervision responsibilities. Nor does the law allow nurses to set up a practice in a salon, hire a physician supervisor, or perform medical procedures independently.

The law does not contain a legal definition of supervision, and therefore, absent a legal definition, the plain English definition applies. "Supervision" is defined as the act of supervising, which is to oversee, to direct, to have charge, to inspect, to provide guidance and evaluation. The law and regulations support this definition.

As an example, the regulations for "standardized procedures guidelines" require physicians to be responsible for ensuring the experience, training, and education requirements for performance of the delegated function — and this must be documented. The regulations require that a method of initial and continuing evaluation of the nurses' competence be established. Further, it is the responsibility of the physician to examine the patient before delegating a task to a registered nurse.

When functioning under "standardized procedures," physicians need not be present in the facility when the procedures are being performed. The facility, however, must be a medical setting. Regulations require that the location be an "organized healthcare system," which is not a salon, spa, or other facility not under the control of the physician.

An appropriate prior examination is required where prescriptive drugs and devices will be used, and this examination may not be delegated to registered nurses. After performing the examination, the supervising physician may delegate a procedure that utilizes a prescriptive device to a nurse working under standardized procedures.

The guidelines further require the standardized procedures to describe the circumstances under "which the registered nurse is to immediately communicate with a patient's physician concerning the patient's condition." While there is no actual mileage limit relating to supervision, this requirement certainly means that the physician must be immediately reachable and able to provide guidance in the event of an emergency or the need for a higher level of care that must be provided by the physician. Physicians must be within a geographical distance that enables them to effectively provide supervision and support when needed or upon request.

For more specific information on registered nurse and nurse practitioner regulations, the Board of Registered Nursing website is: www.rn.ca.gov.

Nurse Practitioners:

Nurse practitioners are granted much more autonomy than registered nurses. They are advanced practice nurses who are master's-level educated, and, for that reason, may perform certain functions with a different level of supervision than registered nurses. The major exception to the rules governing their supervision in cosmetic procedures is that they may be delegated the task of providing the appropriate prior examination and ordering the drug or prescriptive device for the patient, if acting under standardized procedures.

Physician Assistants:

The supervision of physician assistants (PAs) is similar to that of nurses; however, the regulations governing PAs are much more specific. First, PAs may only be delegated tasks that are part of the physician's customary practice. In other words, obstetricians may supervise PAs treating obstetrical patients; pediatricians may supervise PAs providing care to pediatric patients, and so forth. Therefore, if cosmetic medicine is not a part of the physician's customary practice, the physician may not supervise a PA providing cosmetic procedures. In addition, physicians may only supervise four PAs at any given time, and must be in the facility with the PA or be immediately available by electronic communication if the PA is working under a delegation of services agreement.

PAs may be delegated the "appropriate prior examination" of the patient, but there are methods enumerated in the law and regulations on how physicians must provide their supervision and evaluation. For more specific information, all of the rules and regulations are available at the Physician Assistant Committee website: www.pac.ca.gov.

Supervision of all allied health professionals:

"Supervise" is a verb, and it requires those calling themselves supervisors to guide, direct, oversee, and evaluate performance. Physicians must really supervise, not simply lend their license to allied health professionals on paper without providing any supervision. A "supervising" physician who does not give direction, oversee or inspect, is not performing the task of supervising and is in violation of the law.

Qualifications of Physician Supervisors:

Physicians may only delegate to those that they know to be capable of performing the task. If they are to supervise the procedure, the physician too should be capable of performing it. One cannot provide guidance, direction, evaluation and oversight unless one is knowledgeable and competent in the procedure being delegated.

The law does not require board certification to perform cosmetic procedures. That said, however, one should not think that the absence of this requirement allows anyone of any specialty to supervise cosmetic procedures, unless the physician has sufficient knowledge and training in the procedures being performed.

Business arrangements; issues of ownership and control:

California law prohibits the corporate practice of medicine. Laypersons or lay entities may not own any part of a medical practice. (Business & Professions Code Section 2400) Physicians must either own the practice, or must be employed or contracted by a physician-owned practice or a medical corporation. (The majority of stock in a medical corporation must be owned by California licensed physicians, with no more than 49% owned by other licensed health care professionals, such as nurses, physician assistants, nurse practitioners, etc. No stock in a medical corporation may be owned by a lay-person. (Corporation Code Section 13401.5(a))

In an attempt to circumvent this legal prohibition, some creative business and management schemes have emerged that violate the law. Businesses that provide management services, franchises or other models that result in any unlicensed person or entity influencing or making medical decisions are in violation of the law.

As an example, businesses that control medical records, the hiring and firing of healthcare staff, decisions over coding and billing, and the approving or selection of medical equipment or drugs, violate the law. Management Service Organizations (MSOs) arranging for advertising, or providing medical services rather than only providing administrative staff and services for a physician's medical practice (non-physician exercising controls over a physician's medical practice, even where physicians own and operate the business) are also engaging in illegal conduct. Also, many current business arrangements violate the prohibition against fee-splitting or giving any consideration for patient referrals. The current practice of lay-owned businesses hiring medical directors is also prohibited. A physician who acts as medical director of a lay-owned business is aiding and abetting the unlicensed practice of medicine. (See Precedential Decision No. MBC – 2007-01-Q, in the matter of the Accusation against Joseph F. Basile.)

Physicians who become employees or contractors of lay-owned spas and violate other business provisions of the laws may be disciplined for unprofessional conduct.

Physician Responsibility for back-up systems and emergency plans:

Physicians who perform or delegate treatments are responsible for their patients' care. As supervisors, they are responsible to ensure that back-up systems and emergency plans are in place.

Under current law, the patients are the physician's responsibility, and the physician is responsible for treating mishaps, complications or any other emergency that might arise from the treatments the physician has delegated. While nurses are responsible for their patients within their scope-of-practice, under the Medical Practice Act, physicians have the ultimate responsibility for the care of their patients.

Physician responsibility for patient informed consent and education:

All medical procedures must be preceded by informed consent, which should include the possible risks associated with the treatment. While there is no specific code section that enumerates the contents of an informed consent, the well-established doctrine of informed consent in case law requires that patients must be, at a minimum, informed of:

- 1) the nature of the treatment,
- 2) the risks, complications, and expected benefits, including its likelihood of success, and
- 3) Any alternative to the recommended treatment, including the alternative of no treatment, and its risks and benefits.

Providing sufficient information to constitute informed consent is the responsibility of the physician.

Physician responsibility for advertising and marketing:

California law requires advertising to include the physician's name or the name for which they have a fictitious name permit. (Business & Professions Code Section 2272) While nurses may be performing the treatment, the name of the supervising physician, or his or her registered fictitious name, must be in the advertisement.

The law governing physician advertising is specific, and requires the physician ads not be misleading. California law is very specific in prohibiting many of the advertising practices currently being used to promote cosmetic treatments. The use of models, without stating that they are models, the use of touched-up or refined photos, and claiming superiority of the facility or procedures with no objective scientific evidence is prohibited. Also, the use of discount or "bait and switch" promotions is prohibited. The use of "for as low as" in advertising procedures, is strictly prohibited. The laws relating to physician advertising, Business & Professions Code Section 651, may be viewed on the Medical Board's website: www.mbc.ca.gov.

The Bottom Line:

Cosmetic procedures are the practice of medicine, and physicians are responsible for their patients, regardless of who performs the treatments. There is no legal scheme that allows physicians to collect a fee for signing their name to an agreement to lend their license to an entity to practice medicine. Legally, the "clients" of the spa or salon are patients — the *physician's* patients, and that arrangement comes with all of the responsibility and liability that goes with any other doctor-patient relationship. Becoming involved in an improper business arrangement, may, in the short term, raise a physician's economic bottom line. In the long run, however, the risks are great. In reality, the

bottom line is that physicians who become embroiled in these illegal arrangements may lose their license, or their livelihoods.

It is impossible to cover all of the relevant legal issues in this short article, and the content is not a substitute for professional legal advice. Physicians may want to consult with their attorneys or malpractice carriers for additional legal

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| Business Address: | Pagadina, CA 91105 |
| Business Phone: | (626) 449-8873 or (626) 792-1222 Dr Say R. Berger |
| Name of Owner: | Dr. Saul R. Berger, M.D., Inc. |
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| Requesior's Nume: | Jeannette Martello.M.D. |
| Requisitor's Address: | couto Pasadena CA 91030 |
| Date: 2 132 | 2009 Signature: Janutte Watello, M.D.J.D. |
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- (9) Licensed marriage, family, and child counselors.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
- (n) Dental corporation.
- (1) Licensed physicians and surgeons.
- (2) Dental assistants.
- (3) Registered dental assistants.
- (4) Registered dental assistants in extended functions.
- (5) Registered dental hygienists.
- (6) Registered dental hygienists in extended functions.
- (7) Registered dental hygienists in alternative practice.
- 13402. (a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.
- (b) The conduct of a business in this state by a corporation pursuant to a license or registration issued under any state law, except laws relating to taxation, shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by, and the license or registration is issued to, a corporation which is not a professional corporation within the meaning of this part, whether or not a professional corporation could conduct the same business, or portions of the same business, as a professional corporation.
- 13403. The provisions of the General Corporation Law shall apply to professional corporations, except where such provisions are in conflict with or inconsistent with the provisions of this part. A professional corporation which has only one shareholder need have only one director who shall be such shareholder and who shall also serve as the president and treasurer of the corporation. The other officers of the corporation in such situation need not be licensed persons. A professional corporation which has only two shareholders need have only two directors who shall be such shareholders. The two shareholders between them shall fill the offices of president, vice president, secretary and treasurer.

A professional medical corporation may establish in its articles or bylaws the manner in which its directors are selected and removed, their powers, duties, and compensation. Each term of office may not exceed three years. Notwithstanding the foregoing, the articles or bylaws of a professional medical corporation with more than 200 shareholders may provide that directors who are officers of the corporation or who are responsible for the management of all medical services at one or more medical centers may have terms of office, as directors, of up to six years; however, no more than 50 percent of the members of the board, plus one additional member of the board, may have six-year terms of office.

Cancellation No. 92044697
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- (9) Licensed marriage, family, and child counselors.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
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- (1) Licensed physicians and surgeons.
- (2) Dental assistants.
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- (4) Registered dental assistants in extended functions.
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Cancellation No. 92044697 Exhibits-Motion for Summary Judgment March 15, 2009

LAWOFFICE OF DAVID HONG

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Telephone: (866) 824-8680 Facsimile: (866) 824-8680 <u>david.hong@dhpatentlaw.com</u>

Patent, Trademark, Copyright, Trade Secret & Related Causes

March 12, 2008

Mr. Brandon Tesser, Esq. TESSER & RUTTENBERG 12100 Wilshire Blvd., Suite 220 Los Angeles, CA 90025

VIA MAIL & E-MAIL PDF LETTER: btesser@tesser-ruttenberg.com

Re: Client: ACM Enterprises, Inc./Skin Deep Laser Med Spa CANCELLATION NO. 92044697 ACM Enterprises, Inc. vs. Jeannette Martello, M.D. Petition to Cancel Registration No. 2932593 (Pet. Filed July 1, 2005) Serial No. 76581387 (filed March 15, 2004) - Mark: "SKIN DEEP" Attorney File No. 2005-02-0107

Dear Brandon:

This letter follows my March 3, 2008 e-mail letter in response to your March 3, 2008 facsimile letter regarding your supplemental request for the production of the complete copy of the Feb. 1, 2004 Facilities and Management Services Agreement between Berger Medical Corporation and Skin Deep Laser Med Spa, Inc. ("Agreement").

ACM did not produce the entire Agreement in view of the confidential nature of its contents; however, to comply with good faith efforts to participate in discovery, the first and last pages of this Agreement were produced (see Pet. Doc. Prod. 1-24-2006, pages 117 and 118) to identify the existence of this Agreement and to not waive any confidentiality of its contents.

Your March 3, 2008 facsimile letter failed to give any reasons for a further production. I remind you of your duty to make a good faith effort, by conference or correspondence, to resolve with the other party or attorney the issues presented in a motion to compel a further production of documents. See 37 CFR § 2.120(e) and TBMP 523.02.

After receiving your March 3, 2008 facsimile letter, I called you to ask why you needed the full Agreement. In response, you stated that this document was relevant to the issue of standing (i.e. whether ACM Enterprises had the proper standing for this TTAB proceeding) and other reasons, but you did not provide any other reasons.

Mr. Brandon Tesser, Esq.
TESSER & RUTTENBERG
Re: Client: ACM Enterprises, Inc./Skin Deep Laser Med Spa
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Response to Respondent's March 3, 2008 Request for Supplemental Document Production: In response, my client reasserts its objections to the Dec. 20, 2005 First Set of Request for Production of Documents propounded by the Respondent, which were properly presented in Petitioner's Jan. 24, 2006 response. Petitioner will not be providing a complete version of its Feb. 1, 2004 Agreement.

TBMP 402.02 Limitations on Right to Discovery

The right to discovery is not unlimited. Even if the discovery sought by a party is relevant, it will be limited, or not permitted, where, inter alia, it is unreasonably cumulative or duplicative; or is unduly burdensome or obtainable from some other source that is more convenient, less burdensome, or less expensive; or "where harm to the person from whom discovery is sought outweighs the need of the person seeking discovery of the information."

For example, in those cases where complete compliance with a particular request for discovery would be unduly burdensome, the Board may permit the responding party to comply by providing a representative sampling of the information sought, or some other reduced amount of information which is nevertheless sufficient to meet the propounding party's discovery needs. (emphasis added).

However, without waiving the above objections or waiving the right to confidentiality of this Agreement, I am providing a redacted page 4 and the following selection from the Feb. 2004 Agreement to show that ACM has proper standing in this Trademark Cancellation Proceeding:

From Page 4 of the Agreement:

3.9 License to Use Trademarks and Trademarks of Company. Doctor's use of any trademark, trade name, service mark, insignia, slogan, emblem, symbol, design or other identifying characteristic owned by or associated with Company, or any of its subsidiaries or affiliates (collectively, "Company Marks") shall be subject to the written approval of Company. Doctor acknowledges both before and after the expiration of this Agreement the exclusive right of Company to use or to grant others the right or license to use any Company Marks. Doctor acknowledges that use of such Company Marks by Doctor are granted at absolute discretion of the Company, and such use shall terminate immediately upon written notice from Company.

Mr. Brandon Tesser, Esq.
TESSER & RUTTENBERG
Re: Client: ACM Enterprises, Inc./Skin Deep Laser Med Spa
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See the attached three pages of supplemental document production dated March 12, 2008. The e-mail copy of this letter has an attached PDF file. Note the CONFIDENTIAL designation as required by the TTAB Confidentiality Order, dated Nov. 28, 2006, Sec. 1: Classes of Protected Information.

To further clarify, please see Petitioner's Jan. 24, 2006 Response to Respondent's Special Interrogatory No. 4, which has been reproduced in part:

For the Pasadena, CA Location:

The medical practice is Berger Medical Corporation DBA Skin Deep Laser Med Spa, a Medical Corporation, which is a California Corporation and was incorporated on Jan. 7, 2004 with a registered office of 425 S. Fair Oaks Avenue, Suite B, Pasadena, CA 91105.

Dr. Saul Berger, M.D. is the 100% shareholder of Berger Medical Corporation DBA Skin Deep Laser Med Spa, a Medical Corporation; Dr. Saul Berger, MD serves as Director and Chief Executive Officer, and Mr. Colin Hurren serves as Director, Secretary, and Chief Financial Officer.

ACM Enterprises, Inc. DBA Skin Deep Laser Med Spa, Inc. is a California Corporation, incorporated in Nov. 19, 1991 as "Once in a Lifetime Entertainment, Inc." and was subsequently renamed "ACM Enterprises, Inc."

ACM Enterprises, Inc. DBA Skin Deep Laser Med Spa, Inc. is the facilities and management service company to Berger Medical Corporation DBA Skin Deep Laser Med Spa, a Medical Corporation.

This information properly answers your inquiry regarding relevance and standing of ACM in this proceeding against Dr. Martello and fulfills my client's duty of making a good faith effort

Mr. Brandon Tesser, Esq.
TESSER & RUTTENBERG
Re: Client: A'CM Enterprises, Inc./Skin Deep Laser Med Spa
CANCELLATION NO. 92044697
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in responding to a discovery request. If you have other discovery issues, please do not hesitate to contact me.

Regarding Settlement:

We are currently in suspension for settlement purposes. In our March 3, 2008 telephone conference, you stated you wanted the complete Facilities and Services Agreement to determine all issues for your client; however, you did not identify any other issues other than standing. With the standing issue settled, I again suggest that we schedule mediation for this case.

In my last patent and trademark case, I had a good experience with retired Fed. Judge John L. Wagner of Judicate West to mediate, and Judge Wagner was very effective in getting both sides to come to a reasonable business resolution of disputes. If Dr. Martello has a bone fide intention to use this suspension period to settle, I suggest that we coordinate calendars to select an appropriate date with Judge Wagner or another skilled mediator.

Very truly yours,

Encl: 3 page Supplemental Doc. Prod, dated March 12, 2008.

- (g) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date.
- The provisions of Section 2400 do not apply to a medical or podiatry corporation practicing pursuant to the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code) and this article, when such corporation is in compliance with the requirements of these statutes and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporations and the conduct of their affairs.
- 2406. A medical corporation or podiatry corporation is a corporation which is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are physicians, psychologists, registered nurses, optometrists, podiatrists or, in the case of a medical corporation only, physician assistants, are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a medical corporation or podiatry corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Division of Licensing.

- 2407. A medical or podiatry corporation shall be subject to the provisions of Sections 2285 and 2415.
- 2408. Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a medical or podiatry corporation, except an assistant secretary or an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

Notwithstanding the provisions of this section or Sections 13401.5, 13403, 13406, and 13407 of the Corporations Code, a shareholder of a medical corporation which renders professional services may be a medical corporation which has only one shareholder who shall be a licensed person as defined in Section 13401 of the Corporations Code. The shareholder of the latter corporation may be an officer or director of the former corporation.

Nothing in this section shall be construed as prohibiting a nonlicensed person from using the business titles of executive vice president, chief executive officer, executive secretary, or any other title denoting an administrative function within the professional corporation.

The income of a medical and podiatry corporation attributable to professional services rendered while a shareholder is a Cancellation No. 92044697 Exhibits - Motion for Summary Judgment March 15, 2009 disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in such a professional corporation.

- 2410. A medical or podiatry corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a licensee under this chapter.
- 2411. Notwithstanding any other provision of law, the offering and operation by a medical corporation of a health care service plan licensed pursuant to the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code is hereby authorized. For such purpose a medical corporation may employ, or enter into contracts or other arrangements with, any person or persons authorized to practice any of the healing arts, but no such employment, contract, or arrangement shall provide for the rendering, supervision, or control of professional services other than as authorized by law.
- 2412. The Division of Licensing may adopt and enforce regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act including regulations requiring (a) that the bylaws of a medical or podiatry corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a medical or podiatry corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.
- 2413. This article shall apply to medical corporations which have physicians and surgeons licensed by the Osteopathic Medical Board of California as shareholders, officers, and directors only to the extent that this article is not in conflict with or inconsistent with Section 2454.
- 2415. (a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.



- (c) Upon filing a certificate of dissolution pursuant to subdivision (b), a corporation shall be dissolved and its powers, rights, and privileges shall cease.
- 1901. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed.
- (b) The certificate shall be an officers' certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more shareholders authorized to do so by shareholders holding shares representing 50 percent or more of the voting power and shall set forth:
 - (1) That the corporation has elected to wind up and dissolve.
- (2) If the election was made by the vote of shareholders, the number of shares voting for the election and that the election was made by shareholders representing at least 50 percent of the voting power.
- (3) If the certificate is executed by a shareholder or shareholders, that the subscribing shareholder or shareholders were authorized to execute the certificate by shareholders holding shares representing at least 50 percent of the voting power.
- (4) If the election was made by the board pursuant to subdivision (b) of Section 1900, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in said subdivision.
- (c) If an election to dissolve made pursuant to subdivision (a) of Section 1900 is made by the vote of all the outstanding shares and a statement to that effect is added to the certificate of dissolution pursuant to Section 1905, the separate filing of the certificate of election pursuant to this section is not required.
- 1902. (a) A voluntary election to wind up and dissolve may be revoked prior to distribution of any assets by the vote of shareholders holding shares representing a majority of the voting power, or by approval by the board if the election was by the board pursuant to subdivision (b) of Section 1900. Thereupon a certificate evidencing the revocation shall be signed, verified and filed in the manner prescribed by Section 1901.
 - (b) The certificate shall set forth:
- (1) That the corporation has revoked its election to wind up and dissolve.
 - (2) That no assets have been distributed pursuant to the election.
- (3) If the revocation was made by the vote of shareholders, the number of shares voting for the revocation and the total number of outstanding shares the holders of which were entitled to vote on the revocation.
- (4) If the election and revocation was by the board, that shall be stated.
- 1903. (a) Voluntary proceedings for winding up the corporation commence upon the adoption of the resolution of shareholders or directors of the corporation electing to wind up and dissolve, Of the corporation for Summary Judgment

13401.3. As used in this part, "professional services" also means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation **Code**).

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

- (a) Medical corporation.
- (1) Licensed doctors of podiatric medicine.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (b) Podiatric medical corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (c) Psychological corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed chiropractors.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (d) Speech-language pathology corporation.
- (1) Licensed audiologists.

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WAIS Document Retrieval



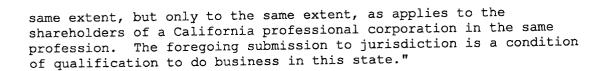
- (e) Audiology corporation.
- (1) Licensed speech-language pathologists.
- (f) Nursing corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (g) Marriage and family therapy corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (h) Licensed clinical social worker corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed marriage and family therapists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (i) Physician assistants corporation.
- (1) Licensed physicians and surgeons.
- (2) Registered nurses.
- (3) Licensed acupuncturists.
- (4) Naturopathic doctors.
- (j) Optometric corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (k) Chiropractic corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (1) Acupuncture corporation.
- (1) Licensed physicians and surgeons.

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- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed physician assistants.
- (9) Licensed chiropractors.
- (10) Naturopathic doctors.
- (m) Naturopathic doctor corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed physician assistants.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Licensed physical therapists.
- (8) Licensed doctors of podiatric medicine.
- (9) Licensed marriage, family, and child counselors.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
- (n) Dental corporation.
- (1) Licensed physicians and surgeons.
- (2) Dental assistants.
- (3) Registered dental assistants.
- (4) Registered dental assistants in extended functions.
- (5) Registered dental hygienists.
- (6) Registered dental hygienists in extended functions.
- (7) Registered dental hygienists in alternative practice.
- 13402. (a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.
- (b) The conduct of a business in this state by a corporation pursuant to a license or registration issued under any state law, except laws relating to taxation, shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by, and the license or registration is issued to, a corporation which is not a professional corporation within the meaning of this part, whether or not a professional corporation could conduct the same business, or portions of the same business, as a professional corporation.

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13403. The provisions of the General Corporation Law shall apply to professional corporations, except where such provisions are in



- 13405. (a) Subject to the provisions of Section 13404, a professional corporation may lawfully render professional services in this state, but only through employees who are licensed persons. The corporation may employ persons not so licensed, but such persons shall not render any professional services rendered or to be rendered by that corporation in this state. A professional corporation may render professional services outside of this state, but only through employees who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. Nothing in this section is intended to prohibit the rendition of occasional professional services in another jurisdiction as an incident to the licensee's primary practice, so long as it is permitted by the governing agency that regulates the particular profession in the jurisdiction. Nothing in this section is intended to prohibit the rendition of occasional professional services in this state as an incident to a professional employee's primary practice for a foreign professional corporation qualified to render professional services in this state, so long as it is permitted by the governing agency that regulates the particular profession in this state.
- (b) Subject to Section 13404.5, a foreign professional corporation qualified to render professional services in this state may lawfully render professional services in this state, but only through employees who are licensed persons, and shall render professional services outside of this state only through persons who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. The foreign professional corporation may employ persons in this state who are not licensed in this state, but those persons shall not render any professional services rendered or to be rendered by the corporation in this state.
- (c) Nothing in this section or in this part is intended to, or shall, augment, diminish or otherwise alter existing provisions of law, statutes or court rules relating to services by a California attorney in another jurisdiction, or services by an out-of-state attorney in California. These existing provisions, including, but not limited to, admission pro hac vice and the taking of depositions in a jurisdiction other than the one in which the deposing attorney is admitted to practice, shall remain in full force and effect.
- 13406. (a) Subject to the provisions of subdivision (b), shares of capital stock in a professional corporation may be issued only to a licensed person or to a person who is licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices, and any shares issued in violation of this restriction shall be void. Unless there is a public offering of securities by a professional corporation or by a foreign professional corporation in this state, its financial statements shall be treated by the Commissioner of Corporations as confidential, except to the extent that such statements shall be subject to subpoena in connection with any judicial or administrative proceeding, and may be

Cancellation No. 92044697 Exhibits-Motion for Summary Judgment admissible in evidence therein. No shareholder of a professional corporation or of a foreign professional corporation qualified to render professional services in this state shall enter into a voting trust, proxy, or any other arrangement vesting another person (other than another person who is a shareholder of the same corporation) with the authority to exercise the voting power of any or all of his or her shares, and any such purported voting trust, proxy or other arrangement shall be void.

- (b) A professional law corporation may be incorporated as a nonprofit public benefit corporation under the Nonprofit Public Benefit Corporation Law under either of the following circumstances:
- (1) The corporation is a qualified legal services project or a qualified support center within the meaning of subdivisions (a) and (b) of Section 6213 of the Business and Professions Code.
- (2) The professional law corporation otherwise meets all of the requirements and complies with all of the provisions of the Nonprofit Public Benefit Corporation Law, as well as all of the following requirements:
- (A) All of the members of the corporation, if it is a membership organization as described in the Nonprofit Corporation Law, are persons licensed to practice law in California.
- (B) All of the members of the professional law corporation's board of directors are persons licensed to practice law in California.
- (C) Seventy percent of the clients to whom the corporation provides legal services are lower income persons as defined in Section 50079.5 of the Health and Safety Code, and to other persons who would not otherwise have access to legal services.
- (D) The corporation shall not enter into contingency fee contracts with clients.
- (c) A professional law corporation incorporated as a nonprofit public benefit corporation that is a recipient in good standing as defined in subdivision (c) of Section 6213 of the Business and Professions **Code** shall be deemed to have satisfied all of the filing requirements of a professional law corporation under Sections 6161.1, 6162, and 6163 of the Business and Professions **Code**.

13407. Shares in a professional corporation or a foreign professional corporation qualified to render professional services in this state may be transferred only to a licensed person, to a shareholder of the same corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a professional corporation, and any transfer in violation of this restriction shall be void, except as provided herein.

A professional corporation may purchase its own shares without regard to any restrictions provided by law upon the repurchase of shares, if at least one share remains issued and outstanding.

If a professional corporation or a foreign professional corporation qualified to render professional services in this state shall fail to acquire all of the shares of a shareholder who is disqualified from rendering professional services in this state or of a deceased shareholder who was, on his or her date of death, licensed to render professional services in this state, or if such a disqualified shareholder or the representative of such a deceased shareholder shall fail to transfer said shares to the corporation, to another shareholder of the corporation, to a person licensed to





requirements:

(A) All of the members of the corporation, if it is a membership organization as described in the Nonprofit Corporation Law, are persons licensed to practice law in California.

(B) All of the members of the professional law corporation's board of directors are persons licensed to practice law in California.

- (C) Seventy percent of the clients to whom the corporation provides legal services are lower income persons as defined in Section 50079.5 of the Health and Safety Code, and to other persons who would not otherwise have access to legal services.
- (D) The corporation shall not enter into contingency fee contracts with clients.
- (c) A professional law corporation incorporated as a nonprofit public benefit corporation that is a recipient in good standing as defined in subdivision (c) of Section 6213 of the Business and Professions Code shall be deemed to have satisfied all of the filing requirements of a professional law corporation under Sections 6161.1, 6162, and 6163 of the Business and Professions Code.

Shares in a professional corporation or a foreign professional corporation qualified to render professional services in this state may be transferred only to a licensed person, to a shareholder of the same corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a professional corporation, and any transfer in violation of this restriction shall be void, except as provided herein.

A professional corporation may purchase its own shares without regard to any restrictions provided by law upon the repurchase of shares, if at least one share remains issued and outstanding.

If a professional corporation or a foreign professional corporation qualified to render professional services in this state shall fail to acquire all of the shares of a shareholder who is disqualified from rendering professional services in this state or of a deceased shareholder who was, on his or her date of death, licensed to render professional services in this state, or if such a disqualified shareholder or the representative of such a deceased shareholder shall fail to transfer said shares to the corporation, to another shareholder of the corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a licensed person, within 90 days following the date of disqualification, or within six months following the date of death of the shareholder, as the case may be, then the certificate of registration of the corporation may be suspended or revoked by the governmental agency regulating the profession in which the corporation is engaged. In the event of such a suspension or revocation, the corporation shall cease to render professional services in this state.

Notwithstanding any provision in this part, upon the death or incapacity of a dentist, any individual named in subdivision (a) of Section 1625.3 of the Business and Professions Code may employ



licensed dentists and dental assistants and charge for their professional services for a period not to exceed 12 months from the date of death or incapacity of the dentist. The employment of licensed dentists and dental assistants shall not be deemed the practice of dentistry within the meaning of Section 1625 of the Business and Professions Code, provided that all of the requirements of Section 1625.4 of the Business and Professions Code are met. If an individual listed in Section 1625.3 of the Business and Professions Code is employing licensed persons and dental assistants, then the shares of a deceased or incapacitated dentist shall be transferred as provided in this section no later than 12 months from the date of death or incapacity of the dentist.

The following shall be grounds for the suspension or 13408. revocation of the certificate of registration of a professional corporation or a foreign professional corporation qualified to render professional services in this state: (a) if all shareholders who are licensed persons of such corporation shall at any one time become disqualified persons, or (b) if the sole shareholder shall become a disqualified person, or (c) if such corporation shall knowingly employ or retain in its employment a disqualified person, or (d) if such corporation shall violate any applicable rule or regulation adopted by the governmental agency regulating the profession in which such corporation is engaged, or (e) if such corporation shall violate any statute applicable to a professional corporation or to a foreign professional corporation, or (f) any ground for such suspension or revocation specified in the Business and Professions Code relating to the profession in which such corporation is engaged.

In the event of such suspension or revocation of its certificate of registration such corporation shall cease forthwith to render professional services in this state.

13408.5. No professional corporation may be formed so as to cause any violation of law, or any applicable rules and regulations, relating to fee splitting, kickbacks, or other similar practices by physicians and surgeons or psychologists, including, but not limited to, Section 650 or subdivision (e) of Section 2960 of the Business and Professions Code. A violation of any such provisions shall be grounds for the suspension or revocation of the certificate of registration of the professional corporation. The Commissioner of Corporations or the Director of the Department of Managed Health Care may refer any suspected violation of such provisions to the governmental agency regulating the profession in which the corporation is, or proposes to be engaged.

Cancellation No. 92044697 Exhibits-Motion for Summary Judgment March 15, 2009

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13409. (a) A professional corporation may adopt any name permitted by a law expressly applicable to the profession in which such corporation is engaged or by a rule or regulation of the governmental agency regulating such profession. The provisions of subdivision

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CALIFORNIA CODES
BUSINESS AND PROFESSIONS CODE
SECTION 2400-2417

2400. Corporations and other artificial legal entities shall have no professional rights, privileges, or powers. However, the Division of Licensing may in its discretion, after such investigation and review of such documentary evidence as it may require, and under regulations adopted by it, grant approval of the employment of licensees on a salary basis by licensed charitable institutions, foundations, or clinics, if no charge for professional services rendered patients is made by any such institution, foundation, or clinic.

- 2401. (a) Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by the Division of Licensing or the Osteopathic Medical Board of California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.
- (b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.
- (c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Alcohol and Drug Programs, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.
- (d) Notwithstanding Section 2400, a hospital owned and operated by a health care district pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code may employ a licensee pursuant to Section 2401.1, and may charge for professional services rendered by the licensee, if the physician and surgeon in whose name the charges are made approves the charges. However, the hospital shall not interfere with, control, or otherwise direct the physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

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2401.1. (a) The Legislature finds and declares as follows:

(1) Due to the large number of uninsured and underinsured



November 02, 2007

SKIN DEEP LASER MEDSPA VOTED "BEST MEDSPA"

-- SKIN DEEP LASER MEDSPA VOTED "BEST MEDSPA" FOR FOURTH CONSECUTIVE YEAR BY READERS OF THE PASADENA WEEKLY --

/24-7PressRelease/ - LOS ANGELES, CA, November 02, 2007 - Readers of The Pasadena Weekly have, for the fourth year in a row, selected Skin Deep Laser Medspa "the Best Medspa in Pasadena" in the weekly newspaper's annual poll of favorite businesses.

Also garnering recognition for the first time is Dr. Saul Berger, Medical Director of Skin Deep who was voted "Best Cosmetic Surgeon".

Colin Hurren, owner of Skin Deep Laser Medspa was chosen by readers as "Best Citizen" recognizing his service to the Pasadena community for such causes as Hillsides and The Pasadena Playhouse, where he serves on their respective boards.

"Receiving the award for 'Best Medspa' four years in a row by readers of the Pasadena Weekly is truly an enormous honor", said Colin Hurren, Skin Deep's CEO, adding "the fact that our Medical Director, Dr. Saul Berger received recognition is gratifying as well and, I hope, further testimony to the level of talent and dedication among all of us at Skin Deep Laser Medspa."

"Skin Deep Laser Medspa's winning of multiple categories in Pasadena Weekly's

Annual readers' poll is a significant achievement of which Colin and his staff should

feel proud. Equally impressive is the award to Colin as "Citizen of the Year", our

most coveted award, is truly impressive. We congratulate and salute the staff of

Skin Deep and Colin personally on being the "Best in Pasadena", said Jon Guyn,

Publisher of the Pasadena Weekly.

Since its opening in March 2004, Skin Deep has offered an ever-widening range of state-of -the-art skin rejuvenating programs including Laser Hair Removal, Photo Facial, Botox, Collagen, Restylane, Microdermabrasion, Photodynamic Acne Therapy and Facial Treatments products and procedures all designed to rejuvenate and enhance the personal aesthetic. The medspa is an approved training center both for Allergan and Lumenis—the market leader in the manufacture of lasers used for cosmetic treatments.

Cancellation No.

Cancellation No. 92044697 Exhibits-Motion for Summary Judgment Skin Deep is currently introducing the latest in laser resurfacing with the arrival of ActiveFX, among the most effective aesthetic procedures with the least amount of downtime for the client.

In addition to Pasadena, Skin Deep has two other locations including Kansas City and the Skin Deep Aesthetic Center, the largest establishment to date, in Encino, California.

For further information please contact

Colin Hurren, CEO Skin Deep Laser Medspa 626-449-8873 colin@skindeeplaser.com

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Read more Press Releases from Colin Hurren:

- Skin Deep Laser Medspa Voted Best Medspa For The Fifth Consecutive Year By Readers Of The Pasadena Weekly
- Skin Deep Laser Medspa Voted "Best Medspa" for second consecutive year by readers of the Pasadena Weekly

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- The Rapid Recovery Necklift Rises In Popularity As Consumers Want To Get Back To Work Within A Week
- The Harley Medical Group Releases 2008 Figures
- Renaissance Laser & Vein Institute (LaserandVeinclinic.com) "Pearl Treatment"
- Rodeo Drive Plastic Surgery Named #1 Destination for Plastic Surgery Travel
- The Harley Medical Group Reports Cosmetic Surgery Market Defies Downturn
- SurgiCare Signs Exclusive Deal With BMI Hospital Group
- Irvine Plastic Surgery Practice Now Offers Short-Scar Face Lift
- New Year's Resolution: Get Your Legs Ready For Spring

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Skin Deep Laser Medspa Voted "Best Medspa"

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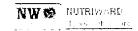
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Skin Deep Laser Medspa Voted Sest Medspa" - Laser Sets

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Skin Deep Laser Medspa Voted "Best Medspa"

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Since its opening in March 2004, Skin Deep has offered an ever-widening range

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March 15, 2009

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of state-of -the-art skin rejuvenating programs including Laser Hair Removal, Photo Facial, Botox, Collagen, Restylane, Microdermabrasion, Photodynamic Acne Therapy and Facial Treatments products and procedures all designed to rejuvenate and enhance the personal aesthetic. The medspa is an approved training center both for Allergan and Lumenis--the market leader in the manufacture of lasers used for cosmetic treatments.

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Skin Deep Laser Medspa Voted "Best Medspa"

Skin Deep Laser Medspa Voted "Best Medspa" For Fourth Consecutive Year By Readers Of The Pasadena Weekly

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Skin Deep MedSpa: An Oasis of Skin Care

As seen in Pasadena Weekly, News and Entertainment

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the oasis

The Skin Deep Laser & Med Spa located on South Fair Oaks Avenue in a small outsiness park beckons visitors with its neutral toned interiors, plush furniture and soft lighting. There is a comfortable hush that keeps the sounds and stresses of the outside world from intruding

- the large, wooden reception area sits Marianne Fannon, assistant client manager.

She greets people with a smile. "I love coming to work," said the 25-year-old Fannon, who's been working in customer service for the last seven years. She sees a lot of care taken here: "warm, friendly staff and the family atmosphere that makes people want to come back."

The company's mission is simple: "We consider ourselves guardians of the skin. We bring out a radiant and youthful glow." said Colin D. Hurren, owner and CEO of Skin Deep.

His medical director monitors the consistency of the non-invasive medical treatments. The spa offers thelatest technology in skin care.

Luminis One, a machine that gives off intense puised light energy, stimulates the growth of collagen and is used to soften the appearance of aging skin and reduce the wrinkles, remove brown soots, fade sun spots, reduce red blotchiness from Rosacea and decrease pore size. The treatment is called a photofacial.

The spa offers Botox injections, as well as the use of wrinkle fillers such a Cosmoderm, Cosmoplast and the recently FDA-approved Restylane. Injections are used to smooth out wrinkles on the forehead, between the eyes and crow's feet areas. The effect lasts four months. Trained registered nurses on staff give injections.

Photodynamic Therapy with Levulan is a new and very safe and effective treatment for acne. Levulan, a clear liquid, is painted onto the face and is left for 45 minutes to set. The product, which kills the bacteria causing the acne, is activated by sitting under a blue light for 15 minutes. This therapy can replace the use of antibiotics and Accutane, which has caused harmful side effects for some people. The company knows how traumatic acne can be for some teenagers, Hurren said. There are plans in the works to give back to the community and offer complimentary services to teenagers living at group homes in the area.

The spa uses lasers for permanent hair removal from just about any part of the body. A laser heats up hair follicles and kills them in the growth stage, Hurren said. Electrolysis, apparently, is a thing of the past.

Smooth as silk





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Cancellation No. 92044697 Exhibits-Motion for Summary Judgment March 15, 2009 Page 211 Complimentary consultations help a client decide what treatment would give them me best results. Suzanne Peters, a Pasadena-based product and marketing photographer, could feel her "skin being happy" after undergoing a c-serum.

"My skin felt like it had been given new life. I was glowing," said the fiftysomething Peters. Friends, she said, told her "Oh, you're looking great. You look radiant."

What impressed Peters about the spa was the staff 's attention to detail. At her consultation, she was counseled about the most effective way to achieve her aesthetic goals while staff members made themselves aware of any lifestyle choices or medications that she was taking that would interfere with the treatments and make them less effective.

Peters was able to achieve a healthful glow to her skin while removing discoloration, red veins and sun damage from her neck and chest. Another aspect of the med spathat Peters finds appealing is its glamour. And while the atmosphere works for her, it's not reflected in the prices, as is the case with so many other places offering skin treatments. You get "good value" and "better prices." she said

The photofacials are effective for all types of skin except African American, said Liza Papadopoulos, a staff registered nurse. The treatment can be done during a lunch nour and since the technology was FDAapproved just a few years back, it has taken off in Southern California, a place where people have active life styles and frequently suffer sun damage. Papadopoulos said. "You can look great for your age without the downtime of surgery," the nurse said.

Botox is another treatment that she says is one of the "most popular" done at the spa. "Over the years, its become more purified. It's very safe if used properly. There's no chance of nerve damage. A trained person has to know how to place the injection. If it's not well done. Botox can migrate and affect surrounding muscles." the said. But doctors said that side effect is temporary.

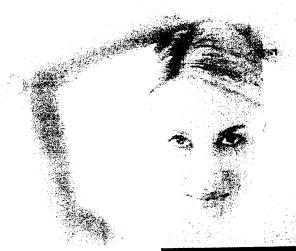
Since baby boomers have a longer life expectancy, "now is the time to have good skin care," Fannon said.

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Skin Deep MedSpa: An Oasis of Skin Care

As seen in Pasadena Weekly, News and Entertainment

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At the oasis

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Luminis One, a machine that gives off intense pulsed light energy, stimulates the growth of collagen and is used to soften the appearance of aging skin and reduce fine wrinkles, remove brown spots, fade sun spots, reduce red blotchiness from Rosacea and decrease pore size. The treatment is called a photofacial.

The spa offers Botox injections, as well as the use of wrinkle fillers such as Cosmoderm, Cosmoplast and the recently FDA-approved Restylane. Injections are used to smooth out wrinkles on the forehead, between the eyes and crow's feet areas. The effect lasts four months. Trained registered nurses on staff give injections.

Photodynamic Therapy with Levulan is a new and very safe and effective treatment for acne. Levulan, a clear liquid, is painted onto the face and is left for 45 minutes to set. The product, which kills the bacteria causing the acne, is activated by sitting under a blue light for 15 minutes. This therapy can replace the use of antibiotics and Accutane, which has caused harmful side effects for some people. The company knows how traumatic acne can be for some teenagers, Hurren said. There are plans



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http://www.skindeeplaser.com/news-skincare-oasis.cfm

2/13/2009



in the works to give back to the community and offer complimentary services to teenagers living at group homes in the area.

The spa uses lasers for permanent hair removal from just about any part of the body. A laser heats up hair follicles and kills them in the growth stage, Hurren said. Electrolysis, apparently, is a thing of the past.

Smooth as silk

Complimentary consultations help a client decide what treatment would give them the best results. Suzanne Peters, a Pasadena-based product and marketing photographer, could feel her "skin being happy" after undergoing a c-serum photofacial.

"My skin felt like it had been given new life. I was glowing," said the fiftysomething Peters. Friends, she said, told her "Oh, you're looking great. You look radiant."

What impressed Peters about the spa was the staff 's attention to detail. At her consultation, she was counseled about the most effective way to achieve her aesthetic goals while staff members made themselves aware of any lifestyle choices or medications that she was taking that would interfere with the treatments and make them less effective.

Peters was able to achieve a healthful glow to her skin while removing discoloration, red veins and sun damage from her neck and chest. Another aspect of the med spa that Peters finds appealing is its glamour. And while the atmosphere works for her, it's not reflected in the prices, as is the case with so many other places offering skin treatments. You get "good value" and "better prices," she said.

The photofacials are effective for all types of skin except African American, said Liza Papadopoulos, a staff registered nurse. The treatment can be done during a lunch hour and since the technology was FDAapproved just a few years back, it has taken off in Southern California, a place where people have active life styles and frequently suffer sun damage, Papadopoulos said. "You can look great for your age without the downtime of surgery," the nurse said.

Botox is another treatment that she says is one of the "most popular" done at the spa. "Over the years, its become more purified. It's very safe if used properly. There's no chance of nerve damage. A trained person has to know how to place the injection. If it's not well done, Botox can migrate and affect surrounding muscles," she said. But doctors said that side effect is temporary.

Since baby boomers have a longer life expectancy, "now is the time to have good skin care," Fannon said.

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Webmasti

WAIS Document Retrieval
CALIFORNIA CODES
BUSINESS AND PROFESSIONS CODE
SECTION 2050-2079

2050. The Division of Licensing shall issue one form of certificate to all physicians and surgeons licensed by the board which shall be designated as a "physician's and surgeon's certificate."

- 2051. The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions.
- 2052. (a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.
- (b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.
- (c) The remedy provided in this section shall not preclude any other remedy provided by law.
- 2052.5. (a) The proposed registration program developed pursuant to subdivision (b) shall provide that, for purposes of the proposed registration program:
- (1) A physician and surgeon practices medicine in this state across state lines when that person is located outside of this state but, through the use of any medium, including an electronic medium, practices or attempts to practice, or advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental Cancellation No. 92044697 condition of any person in this state.

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BEFORE THE DIVISION OF MEDICAL QUALITY MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

| In the Matter of the Accusation Against: |) | OAH No. N2002050521 |
|--|---|--|
| JOSEPH F. BASILE, M.D. |) | MBC Case No. 03-2000-108170 |
| Physician's and Surgeon's Certificate No. G 74601 |) | PRECEDENTIAL DECISION No. MBC-2007-01-Q |
| Respondent. |) | |
| | | |

DESIGNATION AS A PRECEDENTIAL DECISION

Pursuant to Government Code section 11425.60 and Title 16 CCR 1364.40, the Division of Medical Quality, Medical Board of California, hereby designates as precedential Decision No. MBC-2007-01-Q those sections listed below of the decision in the Matter of the Accusation Against Joseph F. Basile, M.D.

- Factual Findings 1 and 2; the first sentence of Factual Finding 3; Factual Findings 4 and 5; and Factual Finding 6 except for the last two sentences.; and
- 2) Legal Conclusions 1 through 5.

This precedential designation shall be effective July 27, 2007.

Cesar A. Aristeiguieta, M.D., F.A.C.E.P,

President

Division of Medical Quality Medical Board of California

BEFORE THE DIVISION OF MEDICAL QUALITY MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOSEPH F. BASILE, M.D. 130 Coffee Road, Suite 7 Modesto, California 95355

Physician and Surgeon's Certificate No. G 74601

Respondent.

Case No. 03-2000-108170

OAH No. N2002050521

PROPOSED DECISION

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings on May 24 through 27, and June 16, 2004, in Oakland, California.

Jose R. Guerrero, Deputy Attorney General, represented complainant.

Robert B. Zaro, Esq., represented Joseph F. Basile, M.D., who was present.

The case was submitted for decision on June 16, 2004.

FACTUAL FINDINGS

- 1. Complainant Ronald Joseph was formerly the Executive Director of the Medical Board of California (Board). The Accusation and First and Second Amended Accusations were issued by him in his official capacity.
- 2. On July 9, 1992, the Board issued Joseph F. Basile, M.D. (respondent) Physician and Surgeon's Certificate No. G 74601. The certificate was current at all times pertinent to this matter. It was due to expire on May 31, 2004, if not renewed. There has been no prior disciplinary action taken against this certificate.
- 3. The allegations against respondent arise from his involvement in and operation of a medical office called "The Vein & Cosmetic Enhancement Center" (VCEC).

- 4. Professional Background. Respondent attended Georgetown University School of Medicine, graduating in 1987. He completed a portion of his residency at Georgetown University before transferring to St. Francis Hospital, affiliated with the University of Connecticut. Respondent became board certified in general surgery in April 1996. Between 1992 and 1999 he was on the medical staff of Salinas Surgery Center in Salinas, California. He also associated with the Monterey Peninsula Surgery Center. He describes his work in Salinas as a "bread and butter general surgery practice" involving hernia repairs, gall bladder, blunt trauma, cancers of all sorts and gastrointestinal surgery. Respondent also served as the medical director of VCEC, a business wholly owned by his wife, Vina Basile. She is neither a physician nor a nurse and she holds no other health profession licenses. VCEC was located in Carmel. Respondent relocated his medical practice to Modesto, where he worked for a short time with the Stanislaus County Health Services Agency. Vina Basile remained behind and continued to work in the Carmel VCEC office for a period before that office was closed in March 2001. VCEC moved to Modesto and respondent continued there in his position as its medical director.
- PhotoDerm Vasculight Machine. Much of this case revolves around the use of a medical device known as a PhotoDerm Vasculight machine. In 1998, respondent became interested in new equipment that could be used for certain cosmetic procedures in a medical office setting. He leased a PhotoDerm Vasculight machine from a company called ESC Medical Systems, and this machine was delivered to his Salinas office in September or October 1998. The PhotoDerm Vasculight machine was designed for the treatment/removal of pigmented lesions, varicose veins, spider veins, reticular veins, age spots and hair. It works on the principle of light selectively being absorbed into pigment and then being converted into heat energy. The heat induces photocoagulation of blood vessels, a mild thermal destruction, without actually bursting the vessels. The body apparently repairs this damage and absorbs the damaged vein. This process causes the vein or cosmetic blemishes to fade. The concept and technology were developed and tested through the early 1990s, and approved by the Food and Drug Administration in early 1994. It is viewed as a relatively safe and non-invasive alternative to previous modes of removing blemishes. For example, one alternative, sclerotherapy, requires injection of an irritating solution to destroy the inner lining of veins, causing clotting and spasm. The new technology eliminated the need for sclerotherapy for most patients.

There are other light emitting devices on the market similar to the one manufactured by ESC Medical Systems. However, the PhotoDerm Vasculight machine is unique in that it combines two light components into a single unit. The PhotoDerm component emits intense pulse light (IPL) through a hand piece, 5 to 15 mm wide. Filters are used to vary the wavelength of light emitted and this will affect the degree of skin penetration. For example, shorter wavelengths (550 nanometers (nm)) will penetrate 1-2 mm, and longer wavelengths (near the infrared spectrum) will penetrate 4-6 mm. The amount or dose of light delivered per surface unit area is called fluence, and it is measured in joules per square centimeter (J/cm²). The duration and number of pulses can also be varied. The operator may input these several parameters into a computer software program that allows for individualized settings. Patients are typically categorized according to a Fitzpatrick skin type scale that

incorporates their responses to a questionnaire on genetic disposition, reaction to sun exposure and tanning habits. The resulting Fitzpatrick scaled score (Skin Types I-VI) will guide the operator in making appropriate settings. The PhotoDerm or IPL component is particularly effective for treating the small varicose and "spider veins."

The second component (Vasculight) is essentially a laser. It is a single very long wavelength (1064 nm) of light amplified by reflecting mirrors. The beam from the laser hand piece is relatively small (4 mm circle) and because it emits a stronger and more coherent light beam it can be used effectively to treat larger veins. The Photoderm Vasculight machine operator can alternate between IPL or laser settings. The machine itself can also provide the operator with recommended settings based on the patient's skin type and the type of lesion (small, medium or deep) that is being treated. The operator may accept these settings or enter different ones. When the treatment is completed, information about each patient's treatment is stored in the machine's computer and can be retrieved later and printed at any time. These records contain patient identifying information, skin type, date and site of treatment, and the settings/figures for wavelength, fluence, pulse duration and number. The operator can also type narrative information under sections describing "Immediate response" and "Note."

6. Respondent and Vina Basile both received training on the operation and use of the PhotoDerm Vasculight from the manufacturer. Both operated the machine. Vina Basile was VCEC's only officer and sole shareholder. Respondent was a non-salaried employee of VCEC. His duties as the corporation's medical director were to obtain patient histories, conduct physical examinations and determine whether individuals were viable candidates for cosmetic procedures. After obtaining the patient's Fitzpatrick skin typing he would determine the appropriate IPL or laser settings for patients. Respondent also had sole responsibility for preparing and submitting patient medical evaluations and for setting fees. There were times when Vina Basile used the machine on patients without respondent also being present.

LEGAL CONCLUSIONS

Unlicensed Medical Practice

1. Respondent is charged with aiding and/or abetting the unlicensed practice of medicine. The primary issue is whether unlicensed individuals can administer IPL or laser treatments to patients.

The scope of medical practice is defined by statute. It cannot be expanded by consideration of practitioners' knowledge, skill, experience or what is taught to practitioners in schools and colleges. (See *People v. Mangiagli* (1950) 97 Cal.App.2d Supp. 935, 939; Crees v. California State Board of Medical Examiners (1963) 213 Cal.App.2d 195, 204;

Magit v. Board of Medical Examiners (1961) 57 Cal.2d 74, 85.) Neither can the scope of medical practice be determined by the practices which have developed in the medical profession and are allegedly common. (Crees v. California State Board of Medical Examiners, supra, 213 Cal.App.2d at pp. 207-208; Magit v. Board of Medical Examiners, supra, 57 Cal.2d at pp. 85-86.) The custom and practice of a particular industry or profession is not controlling in determining the intent of the legislature. (Jacobsen v. Board of Chiropractic Examiners (1959) 169 Cal.App.2d 389, 395; Bendix Forest Products Corp. v. Division of Occupational Safety and Health (1979) 25 Cal.3d 465, 471.) Thus, statutory interpretation is purely a question of law.

The fundamental rule of statutory construction is that a court should ascertain the intent of the legislature so as to effectuate the purpose of the law. (T.M. Cobb Co. v. Superior Court (1984) 36 cal.3d 273, 277.) Reference is first made to the words of the statute. They are to be construed in context of the nature and obvious purpose of the statute where they appear. An attempt is to be made to give effect to the usual and ordinary import of the language and to avoid making any language mere surplusage. (Palos Verdes Faculty Assn. v. Palos Verdes Peninsula Unified School District (1978) 21 Cal.3d 650, 658-659.) Ordinarily, if the statutory language is clear and unambiguous, there is no need for judicial construction. (California School Employees Assn. v. Governing Board (1994) 8 Cal.4th 333, 340.)

2. The relevant statute in this case is Business and Professions Code section 2052, subdivision (a), which provides as follows:

...[A]ny person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, ...

Companion section 2051 of the Business and Professions Code authorizes a physician certificate holder "to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions."

It is clear that the legislature intended to allow only those holding certain certificates to treat blemishes, or other physical conditions. (Bus. & Prof. Code, § 2052, subd. (a).) It is also clear that included within the scope of medical practice is the physician's authority "to penetrate the tissues of human beings and to use any and all other methods" in the treatment of physical conditions. (Bus. & Prof. Code, § 2051.) IPL and laser treatment fall within the

ambit of these statutes. These medical devices are designed to treat blemishes or physical conditions involving the veins and skin. Human tissue is penetrated anywhere from 1 to 6 mm depending upon the machine setting. And such tissue penetration is not without attendant risks. The informed consent form warned the patient of the possibility of rare side effects such as scarring and permanent discoloration, as well as short term effects such as reddening, mild burning, temporary unsightly bruising, and temporary discoloration of skin. These negative outcomes were confirmed by medical expert John Stuart Nelson, M.D., and also by the experience of patient S.S. In short, the use of IPL and laser clearly involves penetration of human tissue and therefore falls within the scope of medical practice.

Respondent agrees that Business and Professions Code section 2052 is the governing statute. He contends rather that medical "practice" is a term of art and that unlicensed medical assistants are permitted to provide adjunctive and technical supportive services to physicians under authority of Business and Professions Code section 2069. Subdivision (a)(1) of Business and Professions Code section 2069 provides: "Notwithstanding any other provision of law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist." "Specific authorization" means a specific written order prepared by the supervising physician authorizing the procedures to be performed and placed in the patient's medical record. (Bus. & Prof. Code, § 2069, subd. (b)(2).) "Supervision" must be by one "who shall be physically present in the treatment facility during the performance of those procedures." (Bus. & Prof. Code, § 2069, subd. (b)(3).) "Technical supportive services" is defined as "simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a license physician and surgeon...." (Bus. & Prof. Code, § 2069, subd. (b)(4).) Regulations set forth specific technical supportive services that can be performed by medical assistants, including administration of medications orally, sublingually, topically, vaginally or rectally; performing electrocardiogram, electroencephalogram or plethysmography tests; application and removal of bandages and dressings and certain orthopedic appliances; removal of sutures or staples from superficial incisions or lacerations, performing ear lavage; and collection by non-invasive techniques specimens for testing. (Cal. Code Regs., tit. 16, § 1366, subd. (b).)

Respondent notes that medical assistants are allowed by law to perform procedures at least as invasive as IPL or laser treatments, including administration of medication by intramuscular injections. He contends that medical assistants who are merely providing adjunctive services to a physician's medical practice and who are not practicing a particular profession – that is to say, they are not independently exercising discretion and specialized training to prescribe and implement a course of action – are not practicing medicine. (PM & R Associates v. Workers Comp. Appeals Bd. (2000) 80 Cal.App.4th 357.) Respondent believes Vina Basile's administration of IPL and laser treatment should be viewed in this same light.

Business and Professions Code section 2069 carefully limits the type of, and manner by which medical assistants perform certain procedures. In all cases the procedures must be performed while certain approved supervisors are physically present in the treatment facility. Respondent was not always physically present when Vina Basile administered IPL and laser treatments to patients. The tasks performed by medical assistants are to be "simple routine medical tasks and medical procedures" that may be performed by one who has limited training. In some respects, Vina Basile performed in a strictly adjunctive capacity to respondent. Respondent, and not Vina Basile, was responsible for making overall treatment decisions. For example, it was respondent who obtained patient histories, performed physical examinations, determined whether patients were appropriate candidates for treatment and who determined appropriate machine settings. Vina Basile exercised no independent discretion and she had not authority in these areas. Yet it was Vina Basile who was 100 percent shareholder and sole corporate officer for VCEC. It was her business. Importantly, the treatment was not ancillary to respondent's workup or diagnosis of a patient's condition. Instead, it was the primary treatment mode sought by patients seeking removal of unsightly varicose veins or other cosmetic blemishes. In that regard it differs from most, if not all, of the "technical supportive services" routinely performed by medical assistants. (Cal. Code Regs., tit. 16, § 1366, subd. (b).) When Vina Basile provided IPL/laser treatment to patients, particularly when respondent was absent from the facility, she was not performing adjunctive services for respondent. She engaged in the unlicensed practice of medicine.

Respondent points out that intradermal, subcutaneous or intramuscular injections performed by medical assistants involve more penetration of human tissue than IPL or laser. However, these are limited exceptions, set forth in statute, to the general rule limiting those who are authorized to penetrate tissue for medical purposes. And even before medical assistants can perform intramuscular, subcutaneous and intradermal injections, or venipuncture for the purposes of withdrawing blood, they are required to complete minimum training (10 hours for each of the different procedures) and to demonstrate proficiency to their supervising physicians. (Cal. Code Regs., tit. 16, § 1366.1.) No such regulations are in place to ensure that medical assistants operating IPL/laser machines are adequately trained. The training received by Vina Basile from ESC Medical Systems may have been adequate, but it is irrelevant to the question of whether there is a legislative intent to include procedures such as IPL/laser within the definition of "technical supportive services" that can be performed by medical assistants. That simply does not appear to be the case at this time. Absent further legislative authority and/or regulatory action, medical assistants cannot legally perform IPL/laser treatments on patients.

5. Respondent aided and/or abetted the unlicensed practice of medicine by allowing Vina Basile to use the IPL/laser to treat patients. Business and Professions Code section 2264 provides: "The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person ... to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct." A violation of section 2264 does not require a showing of either knowledge or intent on the part of the practitioner. (Khan v. Medical Board (1993) 12 Cal.App.4th 1834, 1844-1845.) The

objective of section 2264 is the protection of the public from certain forms of treatment by unlicensed and presumably unqualified persons. (Newhouse v. Board of Osteopathic Examiners (1958) 159 Cal.App.2d 728, 734.)

For these reasons, cause for disciplinary actions exists under Business and Professions Code section 2264. Respondent engaged in unprofessional conduct by aiding and/or abetting the unlicensed practice of medicine by Vina Basile.

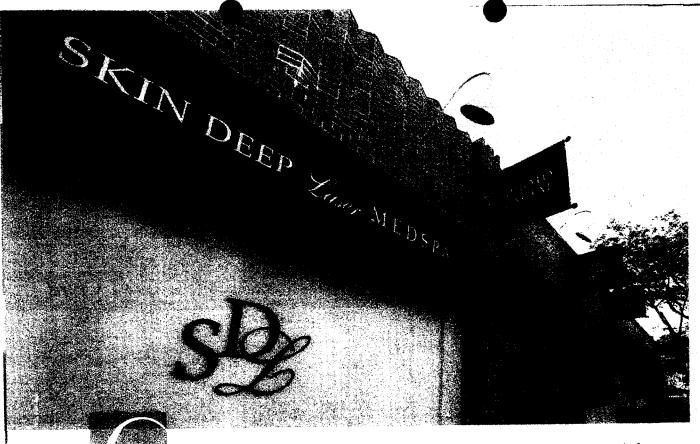
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DATED: July 16, 2004

JONATHAN LEW Administrative Law Judge Office of Administrative Hearings

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wo years ago, Colin Hurren, founder and CEO of Skin Deep Laser Medspa, knew little about the medical spa industry. His interest lay in helping to turn around businesses in financial trouble. It wasn't until he took on a skincare company as a client that he understood this industry's huge potential and the benefits it could afford aging baby boomers. He set out to find a top medical director, the right marketing mix and a staff that could deliver superior customer service. He was successful and his efforts were well rewarded. While Ilurren expected to break even in 18 months, the medical spa met that goal in a mere three months.

And that's only the beginning Today, as this 3,600-square-foot Pasadena, California, medical spa enters its second year of operation, business is doubling, and the Skin Deep team is on track to open a second location in Encino this month that includes a surgical center as well as comprehensive medical aesthetics.

Medical Leadership

Like Hurren. Saul Berger, MD, a distinguished board certified plastic surgeon known for his highly specialized breast reconstruction procedures and reduced-incision face-lifts, had also been considering exploring the medical spa business. Unlike some physicians, he wasn't looking for

a quick revenue producer or an exit from messy insurance entitlements. Instead, he saw an opportunity to expand his clinical exposures and enhance those areas that were related to, but not commonly addressed by, his current plastic surgery practice.

"I came at this because I wanted to develop better quality services," says Berger, who received his training at the University of Southern California and has been practicing medicine in California for more than 15 years. "I had noticed a number of trends that made me fire! I could provide valuable services in addition to just high quality surgery. Many of my face patients were still in need of skin enhancements beyond the operations. I knew my evelid or face-lift surgery wasn't going to be able to address their sun damage, for instance."

When the two men met through a CEO of a local hospital, they recognized the synergy in their philosophics and goals at once. "Our values and what we wanted to achieve in this business were very similar," says Hurren. "He's very much like me in that he has high standards and is a workaholic."

Hurren's savvy business sense and Berger's unflinching drive for medical execulence have quickly propelled Skin Deep Laser Medspa in Pasadena and the newly created Skin Deep Acathetic Center in

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✓ Sau: Berger, MD, saw opening a
Medspa as an opportunity to expand
his services to patients.

What clients won't find at either Skin Deep facility are pampering day spatreatments.



Encino, California, to prominence in the medical spa world.

Of the approximate 600 medical spas and estimated 12,000 day spas nationwide (as estimated by the International Spa Association), Skin Deep Aesthetic Center holds the distinction of being among the few facilities with a hands-on plastic surgeon who will preside full-time over an integrated surgical and medical aesthetics outfit, complete with intense pulsed light (IPL) treatments, chemical peels, aesthetic surgery and specialized surgeries, such as advanced breast reconstruction for breast cancer patients.

"Many medspas have an affiliation with plastic surgeons where the work is done in a separate office or hospital. Here, we have an integrated medical aesthetics and surgical outfit where everything is under one roof," says Berger. "I revel in the fact that I have nurses who have lunch with estheticians and the operating staff. The whole thing is about having a unified family rather than a fragmented operation."

Because the medical director will be on the premises full-time, clients visiting the new 6,800-square-foot facility can take advantage of Berger's virtually pain-free Restylane (Medicis Aesthetics, Scottsdale, Arizona) lip enhancements; endoscopically guided, scar-free breast enhancements; and his creative uses of Botox (Allergan, Irvine, California) for brow arching and as a corrective for depressed lip lines.

One of the first in the region to work with photodynamic therapy, Berger is also able to offer clients of both Skin Deep facilities these cutting-edge procedures, which combine the photosensitizing topical Levulan (DUSA Pharmaceuticals, Wilmington, Massachusetts) with light energy to treat the signs of sun damage and acne.

What clients won't find at either Skin Deep



▲ Two attractive consultation rooms allow staff to educate prospective cilents on Skin Deep's services.

facility are pampering day spa treatments. "I drew the line at massages, pedicures and manicures," says Hurren. "We're a medical facility in a spa-type environment with outstanding customer service but, at the end of the day, we're still providing professional medical treatments. You have to know what business you're in and focus on that."

Training Rules

One of the behind-the-scenes systems that set this operation apart from others is the intense selection,



scrutiny and training of Skin Deep's staff. Regardless of how much previous training they've received, every registered nurse and aesthetician hired must pass a probationary period and receive hands-on training from the medical director before administering a single treatment.

"We won't sign off on anybody just because she's gone through a course and received certification. They have to pass my muster, too, because we have too much at stake in terms of the quality of our treatments," Berger says. Although he concedes that finding good staff members is not an easy task, he has the advantage of working with many nurses in

operating rooms and clinics, and has had good success in recruiting some of the best as employees. He has also found good staff members through referrals from colleagues he trusts.

Hand-picked, intensely trained staff members allow Skin Deep to offer excellent client education that focuses on selling clients on the benefits of buying treatment series rather than individual services. "That's a key strategy for Skin Deep," says Hurren.

In return, the aestheticians, registered nurses, client managers and medical director on staff at Skin Deep enjoy the benefits of full-time employee

Cancellation No. 92044697 Exhibits-Motion for Summary Judgment March 15, 2009 Page 227 All Skin Deep services are covered by strict protocois. >

status. "I believe if you're going to provide this kind of quality service, you need to be willing to put the proper resources into their training and growth," says Hurren.

Marketing That Works

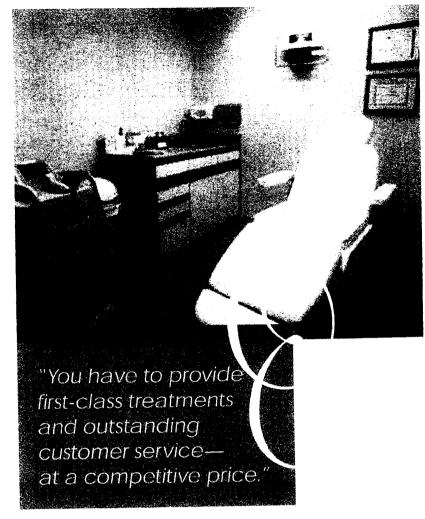
While Berger grapples with the constant challenge of finding good medical staff, Hurren finds the biggest challenge of the industry lies in attracting clients. "Sixty percent of this business is about marketing," he says. "You can spend a lot of money on paid advertising and see few results, so it's about finding the right marketing mix, the right message as a whole—not just about placing an ad." Skin Deep has met that challenge with a blend of public relations, newspaper advertising, direct mail pieces that target events such as a successful open house in September 2004 and an effective cross-promotion with a high-end Pasadena gym. For example, the medical spa took its gym cross-promotion to the public with a newspaper ad that treated those who came into the spa for a free skincare consultation to a free oneweek pass at the gym.

In the beginning, Hurren wanted to convey a quality, upscale spa image in print, but he knew that if he didn't advertise his prices, potential clients would be scared off by a perception that the services were unaffordable. So he took the bold move of printing a mini menu with the spa's competitive pricing in newspaper ads.

"First, you have to provide first-class treatments and outstanding customer service, but you also have to provide them at a competitive price," he notes.

Out of all the marketing options available to Skin Deep, personal referrals have generated





the most business for the medical spa to date, says Hurren. "Good word of mouth is achieved by not just offering first-rate treatments and products and a comfortable environment, but also by providing a great experience for clients. That is done by making sure your staff is trained and motivated to engage with the clients. They're not only walking away pleased with the outcome of their procedures, but they leave feeling like they've had an experience with lots of personal attention."

New Technology

While the ongoing advances in medical aesthetic technologies can make it tempting for any medical director or owner to purchase the latest innovations, Hurren and Berger limit their investments to equipment that has been proven effective through clinical trials and inside Skin Deep's own treatment rooms.

"We tend not to jump into buying equipment that was, say, just approved by the FDA," says Berger. "That's a surefire way to end up with unused

≺ Skin Deep does offer patients mineral makeup to hide treatment side effects.

Cancellation No. 92044697 Exhibits-Motion for Summary Judgment March 15, 2009



All treatments, from light therapies to fillers, are covered by strict protocols.

equipment. I'm always looking at the literature and passing relevant information on to the nurses in our practice, so they can take advantage of the latest findings."

All treatments, from light therapies to fillers, are covered by strict protocols. When manufacturers release new laser settings or filler guidelines, these are incorporated into the procedures to keep them up to date.

Interestingly enough, one of the most effective pieces of equipment and highest revenue producers in the Skin Deep mix actually doesn't make any money at all for the medspa, at least not directly. However, it certainly pays its way in referrals. Provided free to Skin Deep clients, a Photo Complexion Analysis and Consultation, using the VISIA (Canfield, Fairfield, New Jersey) pinpoints six indicators, including spots, pores, porphyrins (evidence of bacteria in the pores), wrinkles, evenness and UV spots, then gives a percentage for each indicator, showing the client how she compares with others in her age group and skin type. Best of all, the consultation provides each client with a report offering tangible, visual data on these six indicators. While spots, UV spots and unevenness may point to a client's benefiting from an IPL treatment, a high rate of wrinkles often leads to Botox and fillers.

In the future, Berger expects to see more of the same technological trends the industry is currently experiencing, such as increased linkages between topical medications and light therapies. "That gets me very excited," says Berger. "I don't think it's going to stop with Levulan." He expects to see safer fillers with fewer side effects and better delivery of light energies as well.

Skin Deep will continue to focus on perfecting its medical aesthetic procedures with the emphasis placed on "quality of workmanship" as opposed to "revenue return."

"That's kind of our concept," Berger notes. "We feel it's really about putting together all the components the best we can without compromise." Both Berger and Hurren see only continued success for their medical spa model. *

Andrea Sercu is a freelance writer based in Los Angeles, CA.

Skin Deep Laser Medspa Menu

- Skindare options range from 50-minute deep cleansing facial (\$80) to a package (\$3,000)
- Patients can choose a Photodynamic Acne Treatment with blue light only (\$65) blue fight and Levulan (\$295) or IPL and Levulan (\$600)
- Hair removal treatments are available for every body part from the upper lip. (\$75 or \$300 for a package of five) to full legs (\$450 or \$1,800 for a package of five).
- Botox injections (\$11 per unif) can be combined with Restylane injections (\$490 per syringe) in the Beautiful Lips Package, which enhances the fullness of the lips and gives the mouth a more youthful look for \$550.
- Vein removal is available for the face, neck, chest and legs (\$350 per 30-minute session)

For more information, check out the website at www.skindeeplaser.com. Cancellation No. 92044697







YOUR JOURNEY BEGINS
WITH A COMPLIMENTARY
SKIN DEEP IMAGING ANALYSIS

10 Jan 1

En an gas a section are, so too is your complexion.

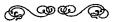
En are a sur in -depth analysis of your referedual facial characteristics, it is now possible to design a rejuvenation and skin care program specifically for you.

And it's as simple as a photograph.

Based on your complexion profile, your facial rejucenation program will also include optimized recommendations for ongoing skin care health. Skin Deep will help in monitoring your complexion's citality and checking effectiveness of your skin care regimen over time.



TREATMENTS



These FDA-approved skin rejuvenating treatments are performed in a luxurious and elegant setting using the latest technology by highly trained and experienced staff.

SKIN REJUVENATION

Our staff of medical aestheticians provide a complimentary consultation to discuss your individual skin care needs. Whether selecting treatments to refresh healthy skin or customized plans to address specific problems such as sun damage, oily skin, acne, aging, our goal is to provide the most effective results. The staff will also guide you in selecting medical-dispensed skin care products that are more powerful and effective than most consumer products.

Skin Deep Custom Facial: Your skin has specific needs, which is why our approach to your skin will be unique. Customized to your skin type, this cleansing treatment encourages skin revitalization and rejuvenation. This facial includes exfoliation, extractions and a relaxing massage of the face, neck, shoulders, décolleté and hands. This is followed by a customized application of antioxidants and brighteners to firm and tone the skin.

Gentleman's Facial: Shaving as well as outdoor activities take a toll on a man's face. This deep cleansing treatment relieves the skin of ingrown hairs and irritation caused by shaving and environmental factors. Also includes exfoliation and extractions, followed by a massage of the face, neck and shoulders.

Anti-Aging Peels: These highly beneficial treatments use proven state of the art technologies to effectively stimulate collagen production and exfoliate dead skin cells to promote healthier skin. Fine lines, wrinkles and large pores are minimized, resulting in a smoother and more youthful complexion. Light to Medium depth.

Depigmentation Peels: These treatments are specifically designed for darker spots and uneven complexion, often related to hormones or other environmental factors. Each treatment is customized to your specific needs to create a brighter and more even skin tone.

Acne Peels: A valuable treatment option for teenagers and adults. Our process utilizes antibacterial action combined with exfoliating and anti-inflammatory effects to remove dead skin, whiteheads and blackheads. Improves skin texture and clarity while balancing the complexion.

Microdermabrasion: This exfoliation treatment is beneficial for sluggish dull skin. The procedure includes multiple passes of Microdermabrasion followed by extractions. The procedure is completed with a customized application of ingredients designed to give your skin a soft polished appearance.

Microdermabrasion Plus: This advanced treatment of Microdermabrasion is followed by a chemical peel to maximize the benefits to the skin. Dead skin cells are removed with Microdermabrasion allowing a deeper penetration of hydroxy acid solutions to deliver rapid results. Each treatment is customized to your specific skin care needs.

Deep Pore Cleanse: This treatment is an excellent choice for detoxifying all skin types. A deep cleansing treatment exfoliates dead skin cells and removes impurities while introducing vitamins, enzymes and nutrients into the skin. Each treatment emphasizes exfoliation and extractions to create a smooth texture of the skin. Effectively helps to dissolve impactions and blackheads and helps to remove excess cell debris.

Pumpkin Peel: A powerful antioxidant treatment that helps to brighten and rejuvenate the skin. Pumpkin offers many beneficial components which help to stimulate circulation, promote healing and provide vitamin nutrition. This treatment treats a variety of skin conditions and is complimented by an aromatic scent.

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Purifying Back Treatment: A deep-cleansing treatment used to remove toxins and impurities combining exfoliation, extractions and massage. This is followed by a customized rebalancing mask. This treatment is a great way to calm dry, irritated and blemish-prone skin. Skin is left hydrated, purified and clear.

Oxygenating Treatment: A powerful antioxidant facial which is ideal for dull complexions, dehydrated or acneic skin. This treatment increases circulation to deliver oxygen to the skin. Oxygenation of the skin helps to reverse free radical damage, inhibits bacteria, promotes healing and stimulates respiration. This improves the condition of the skin to create a smooth radiant glow. Appropriate for all skin types with the exception of rosacea. An ideal treatment 2-3 days prior to an event.

Teen Facial: This treatment is designed specifically for adolescent skin and is the perfect introduction to skin care. Deep cleansing and exfoliation of dead skin cells are followed by gentle extractions. Oil balancing hydrators and protectors are then applied to help nourish the skin. A personalized skin care regime is given upon the completion of the treatment.

Melanage: This new and advanced treatment is now available to treat stubborn hyper pigmentation, Melasma and dark spots on the face. Melanage has been uniquely formulated with compound ingredients to treat the different causes of uneven complexion to lighten darker skin without altering the natural color and tone. This system includes after care products and a skin care regime to ensure maximum benefits and long term results.

Blue Light with Peel: The Blue Light Treatment is a safe, no downtime procedure that targets mild to moderate inflammatory acne. The combination of light therapy and chemical exfoliation aids in detoxification and purification of breakout prone skin resulting in a clearer skin texture. It is perfect for face and body.

PULSED LIGHT FACIAL & BODY REJUVENATION

Often referred to as "Photo Facial", this highly popular light technique is designed to treat a wide variety of skin conditions. Pulses of light are passed into the dermis of the skin and are selectively absorbed by brown and red pigments, resulting in a wide range of benefits including diminishing age/liver spots, fine lines, redness, broken capillaries, freckles, minor sun damage, port wine stains and spider veins.

Because the light energy passes directly through the surface, there is no peeling of the outer skin layers and no down time. This powerful therapy can be used not only for the face, but also for the neck, chest, hands, arms and other areas.

Results: Diminish or eliminate a variety of skin problems. General correction of uneven skin color and Rosacea. Will enhance texture and reduce pore size.

Recommended Number of Treatments:

5 treatments comprise the recommended program necessary to achieve the best results.

Treatment Interval: 2-3 weeks.

Treatment Time: Varies with the areas treated (30 minutes).

SKIN RESURFACING

ActiveFXTM is a fractional laser procedure performed in a single treatment with minimal patient downtime. During the procedure, a highenergy beam of laser light is used to smooth out lines, wrinkles and scars, remove brown spots and other irregularities, and tighten the skin. It also stimulates formation of new underlying collagen to continue improvement over time. With fractional laser treatment, small "bridges" of untouched skin are left, which makes the healing process much faster and enables you to get back to normal activities sooner.

Results: Reduces wrinkles, fine lines and softens deeper frown lines. It noticeably improves skin tone and texture, stimulates new collagen formation and plumps the skin.

Results of the treatment are long-term and with proper sun protection, can last for years. Most effects of treatment become visible right away, whereas others such as new collagen formation build up gradually and results in continued smoothing over time. Therefore, most people continue to show improvement up to 6 months after the procedure.

Recovery Time: 4-7 days.

Recommended Number of Treatments:

Usually one but treatment program can be customized to meet the client's particular needs.

Treatment Time: 60 minutes.

SKIN TIGHTENING (PASADENA ONLY)

The Aluma skin renewal treatments turn back the clock and gently reverse the aging process. This revolutionary technique delivers energy safely and comfortably to the underlying layers of the skin, gently stimulating the production of new collagen, while protecting the outer layer of the skin. The new collagen that is formed plumps and smoothes the skin, making it appear more youthful.

Results: Reduces fine lines and wrinkles, tightens the skin, improves aged and sun damaged skin and stimulates new collagen growth.

Recommended Number of Treatments: 5 Treatments.

Treatment Interval: One to two weeks.

Treatment Time: 15 to 30 minutes depending on the area being treated.

PHOTODYNAMIC THERAPY/PDT FOR SUN-DAMAGED SKIN

Although medical professionals have encouraged avoidance of the sun's rays for many reasons, most individuals have already received the majority of ultraviolet damage before the age of 20. In addition to causing premature aging, the effects of sun exposure can predispose patients to precancerous changes and actual skin cancer itself.

PDT is a highly effective technique in which a special medication is applied to the skin to "tag" sun-damaged areas. Light is then used to activate the medication. By using this powerful combination, patients can achieve significant improvement in their appearance and reduction in the risk of skin cancer at the same time.

Skin Deep Laser Medspa is proud to have been one of the first centers in the country to adopt PDT as mainstream therapy.

Results: Reduction in sun-damaged cells and pre-cancers; improved skin appearance.

Recommended Number of Treatments: Varies with each patient, but is usually 3 to 5.

Treatment Interval: Every 4 to 6 weeks.

Treatment Time: About 60 minutes for the topical medication, and 30 minutes for light treatment.

3 ACNE THERAPY

Very few of us pass through adolescence without experiencing some form of acne. Certain individuals are more severely affected and many of them continue to experience breakouts into adult life.

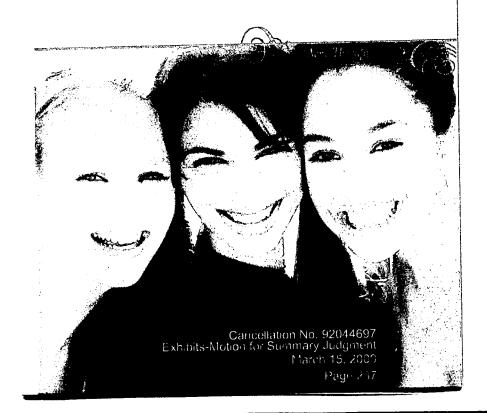
Skin Deep offers various therapies including specific wavelength light (such as Blue Light) with topical medications to reduce the acne-causing bacteria. These approaches can be a safer alternative over prescribed drugs such as Accutane or long-term antibiotics. This is an especially effective solution for teenagers.

Results: Reduction in pimples and breakouts without the use of oral medications.

Recommended Number of Treatments: 3 to 6.

Treatment Interval: Two weeks.

Treatment Time: 60 minutes.





OUR PROMISE

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i'M CONFIDENT

"I'M CONFIDENT IN WHAT YOU DO. LHAVE HAD NOTHING BUT COMPLIMENTS ABOUT MY SKIN SINCE YOU STARTED MY TREATMENTS.

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THIANKS TO THE HIND STAUT AT SKIN DEEP WHO REALLY UNDERSTAND THE WORDS SKIN CARE. I'M FINALLY ON A REGIMEN HEAT WORKS AND YOUR PRODUCTS ARE REALLY EFFECTIVE."

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WRINKLE CORRECTION THERAPIES

Persistent facial lines and wrinkles make the face look older and often convey negative emotions such as worry, anger, anxiety or sadness. Safe and effective therapies now exist that can reduce or eliminate these problems by injection of either Botox® to reduce muscle contraction or fillers such as Restylane® to correct volume deficiencies.

A. Wrinkle Relaxer - Botox Cosmetic®

Many wrinkles are actually creases that have been worn into the skin by making the same expression thousands of times. Botox[®] injections smooth wrinkles by safely and selectively blocking the muscles from contracting. As a result, the muscles relax and the wrinkles gradually soften and often disappear. There is no downtime.

Botox® is a sterile, purified protein that has been used in the medical field for more than 20 years. When employed for cosmetic purposes, it is used in minute quantities that cannot harm your body.

In addition to the millions of treatments given each year for cosmetic purposes, Botox® has even provided long lasting results in treating abnormal sweating conditions of the underarms and hands.

Results: Reduction or elimination of

- Frown lines between the eyes or top of nose
- Crow's feet around the eyes
- Lines across the forehead
- Lines around the mouth and lips
- Muscle bands of the neck
- Muscles that depress the corners of the mouth.

Recommended Number of Treatments:

Most patients benefit from consistent treatments as long as undesirable muscle contraction returns. There are many instances in which patients have been able to taper or reduce the number of treatments after a period of time.

Treatment Interval: Every 3 to 4 months is usual, though some patients may see a longer-lasting effect.

Treatment Time: Varies with the number of areas being treated, but is often 5 to 15 minutes.

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B. Wrinkle Fillers - Restylane®, Juvéderm™, Radiesse®, Perlane & Others

Facial wrinkles and creases begin to appear as the underlying collagen and elastin fibers break down and wear out. Fillers are injected into or under the skin to restore volume and reduce wrinkles and folds. They are also used to create fuller, more youthful lips. Most of the products selected for use at Skin Deep are developed to be virtually identical to components found naturally in your body or skin structure – this reduces the risk of allergic reaction to the point that pre-treatment skin testing is not needed.

Results: Filling and smoothing the folds of the smile lines of the cheek, frown lines, marionette lines, lip wrinkles and other areas of the face. Also, lip enhancement for fuller lips. The results can often be enhanced when used along with Botox® therapy.

Recommended Number of Treatments:

Most patients benefit from consistent treatments that are scheduled according to the areas treated and the filler used.

Treatment Interval: Varies widely with the filler selected (5 to 12 months).

Treatment Time: 30 to 60 minutes.

🕉 Laser Hair Removal

Unwanted facial or body hair is easily removed through treatment with laser light that stops growth at the hair follicle. The ability to permanently reduce hair through a series of treatments can be both convenient and cost effective when compared to repeated shaving or waxing. Our laser technology allows rapid hair removal without the need for topical anesthesia for the majority of patients (though it is available).

Results: Permanent reduction of hair is achieved in most cases. Virtually all skin types can now be safely treated.

Recommended Number of Treatments:

5 to 8 treatments are advised since lasers are only effective on the hair follicles that are in the active growth phase when the treatment is given.

Treatment Interval: 4 to 12 weeks.

Treatment Time: Varies with the area being treated, but is often 15 to 60 minutes.

Recovery Time: There is no down time.



VEIN TREATMENT

Nearly half of all men and women suffer from unsightly spider leg veins. As diseased veins, they have become dilated and are much more visible through the skin over time. Covering them up will not make them go away and the condition usually becomes progressively worse over time.

Technologies at Skin Deep to treat this common problem include Intense Pulsed or Laser light energies which are able to pass through the skin and obliterate such veins. These treatments are safe and effective in removing veins visible on the face, neck, chest, legs and other areas.

Results: Reduction of visible spider veins.

Recommended Number of Treatments: 1 to 3 is typical.

Treatment Interval: Every 3 months.

Treatment Time: 30 to 60 minutes.

Recovery Time: There may be slight bruising or darkening of the skin at the treatment site.

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A CELEBRATION OF BEAUTY AND RADIANT SKIN



THE MOST BEAUTIFUL, YOUTHFUL
AND RADIANT YOU."



SKIN CARE PRODUCTS

Skir: Deep's exclusive line of medical grade skin care products is designed to address a wide range of skin types and problems.

Formulated for use at home, our products include skin lighteners, retinal, antioxidant serums and creams, resarfacing pads, masques and harrier repairs. This line complements our in office treatments and procedures, and is formulated a tili active ingredients including glycolic and salicylic acids, along with patent and green tea.

VITAMIN C & GREEN TEA CREAM VITAMIN C & GREEN TEA SERUM

Improves the appearance of:
Skin aging
Dull skin tone
Dry skin

Our Vitamin C & Green Tea products contain the only form of vitamin C clinically proven to increase collagen production. Combined with penetration-enhancing hydroxyacids, they are some of the most potent anti-aging products available today.

Our Vitamin C & Green Tea formula clarifies and brightens the skin, while tightening aging skin and softening the appearance of fine lines and wrinkles, especially when used with our Vitamin A products. The Vitamin C & Green Tea Cream is appropriate for normal to dry skin types, and the Vitamin C & Green Tea Serum is ideal for normal to oily skin types. Both are 100% fragrance-free.

VITAMIN C & GREEN TEA SOOTHING GEL

improves the appearance of:
Skin irritation
Skin aging
Sensitive skin

Our Vitamin C & Green Tea Soothing Gel is non-acidic and contains the only form of vitamin C clinically proven to increase collagen production. This powerful combination of antioxidants neutralizes free radicals and provides the skin with clarifying and brightening actions. It is gentle enough for application after skin-rejuvenating treatments such as superficial chemical peels, microdermabrasion, non-ablative laser and IPL.

Vitamin C & Green Tea Soothing Gel is perfect for all skin types including sensitive, acne and rosacea. This light, fragrance-free gel leaves the skin with a silky, matte finish.

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VITAMIN A RETINOL GEL VITAMIN A RETINOL PADS

Improves the appearance of:
Fine lines (after four weeks)
Wrinkles (after twelve weeks)
Mottled skin tone and hyperpigmentation
Uneven skin texture and dryness

Our Vitamin A Retinol penetrates the outer layers of skin and works to repair and stimulate collagen and elastin, creating firmer, smoother, and softer skin. Vitamin A Retinol creates healthier skin by increasing cellular turnover and causing older skin cells to slough off faster. Increased cell turnover can also be beneficial for acne sufferers, as the exfoliation effect unclogs pores and helps fade acne scars.

Available without a prescription, the Vitamin A Retinol Gel is appropriate for normal to dry skin. The Vitamin A Retinol Pads are ideal for combination and oily skin types.

SKIN BRIGHTENING CREAM SKIN BRIGHTENING SERUM

Improves the appearance of:
Skin discoloration
Sun spots
Post-inflammatory hyperpigmentation

Our Skin Brightening products combine kojic acid, hydroxyacids and vitamin C. All of these ingredients are clinically proven to reduce hyperpigmentation and to brighten skin tone. Kojic acid is a gentle, less irritating alternative to the prescription lightener, hydroquinone. Vitamin C and green tea are antioxidants that neutralize free radicals as well as reduce dryness and irritation. Hydroxyacids exfoliate dead skin cells and even skin tone.

Skin Brightening Cream is moisturizing and contains lactic acid for normal to dry skin types. The Skin Brightening Serum is a light silicone serum containing salicylic acid for oily skin types. Both may be used as a spot treatment to pigmented areas.

SKIN LIGHTENING PADS SKIN LIGHTENING SPOT TREATMENT

Improves the appearance of:
Stubborn skin discoloration
Melasma

4%

Post-inflammatory hyperpigmentation

Our Skin Lightening products contain potent skin lightening ingredients plus antioxidants. This combination includes kojic acid, lactic acid, vitamin C, green tea and hydroquinone, making it the strongest and most effective treatment available for hyperpigmentation and melasma. This cosmetically elegant solution is free of retinoids and steroids.

Skin Lightening Pads are pre-saturated and convenient to use on the face, neck and chest, as well as broad areas of the body. Skin Lightening Spot Treatment is supplied in a handy touch stick for the back of the hands, arms or smaller areas of pigmentation.

OILY/ACNE PADS

Improves the appearance of:
Enlarged pores
Oily skin
Acne breakouts

Our Oily/Acne Pads are convenient, daily-use pads containing a potent combination of hydroxyacids, green tea and hydrogen peroxide. The combination of salicylic, glycolic and lactic acids helps to reduce oiliness and exfoliates dead skin cells that can clog pores. Hydrogen peroxide changes to benzoyl peroxide when applied to the skin, killing the bacteria that cause acne. The antioxidant properties of green tea neutralize free-radicals and soothe the skin.

Oily/Acne Pads are recommended for daily use for oily and acne skin types. This quick-drying solution comes in pre-saturated pads for use on the face and body.

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ANTI-AGING PADS

Improves the appearance of:
Fine lines and wrinkles
Dull skin tone
Uneven skin texture
Acne breakouts

Our Anti-Aging Pads are an integral part of an anti-photoaging regimen. These potent, once-a-week pads are an ideal, at-home chemical peel treatment. Glycolic, lactic and salicylic acids exfoliate the dead skin cells, revealing healthier and glowing skin. The antioxidant properties of green tea reduce irritation and neutralize free-radicals.

Anti-Aging Pads are available in a pre-saturated form making it convenient for use on the face and body. This product is appropriate for most skin types.

SENSICLEANSE

Improves the appearance of:
Irritation
Dry skin

Our SensiCleanse is a lightweight, non-foaming cleanser. It is creamy and soap-free, and is a better alternative to commercial cleansers. Developed for sensitive skin, it is designed for clients who cannot tolerate harsh soaps. It is also an excellent cleanser for post-procedure use.

WEEKLY MASQUE

Improves the appearance of:
Uneven skin texture
Oily skin
Acne breakouts
Blackheads

Our Weekly Masque contains DMAE and other powerful antioxidants, in addition to alpha and beta hydroxyacids, to calm and tone the skin. It can be used as a component of our antiphotoaging regimen once a week in conjunction with acne therapies, or as a stand-alone treatment.

The Weekly Masque is ideal for normal to oily skin types to reduce blackheads and calm breakouts. Because the Weekly Masque can cause over-drying in some individuals, we recommend applying a light moisturizer over the masque to protect the skin overnight.

3 OILY/ACNE SKIN FOAMING CLEANSER

Improves the appearance of:

Oily skin

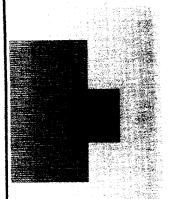
Acne breakouts

The first and most important step to good skin care is proper and effective cleansing of the skin. Our Oily/Acne Skin Foaming Cleanser contains 2% salicylic acid combined with glycolic acid in an elegant and moisturizing foam base. This stand-out cleanser removes dirt and make-up debris without over-drying or stripping the skin of its precious moisture barrier.

Oily/Acne Skin Foaming Cleanser is designed for clients with normal to oily skin and/or acneprone skin.

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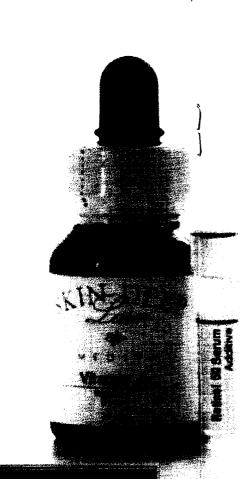


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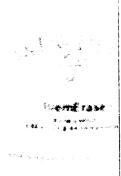
Vitamin A

Retinol 50 EmoluGel

1 oz / 28.7 g







OUR PROMISE.

As a reader spaint we are note to offer any order to offer the offer in your kind rare not attens through the major of products and there is another. Mortake profesin devoting the electric to our about the than can be as a pure to a profession of the care of the conditional medical noting.

~ / / / /

Cancellation No. 92044697 Exhibits-Motion for Summary Judgment March 15. 2009 Page 246 SKIN DEEP'S EXCLUSIVE LINE OF MEDICAL GRADE SKIN CARE PRODUCTS

🥦 PEPTIDE GEL

Improves the appearance of:

Dehydrated skin
Dull skin tone
Fine lines and wrinkles
Signs of photoaging

Our Peptide Gel is a unique hyaluronic acidbased gel with peptides designed to enhance skin moisture and reduce signs of photoaging. Hyaluronic acid is an effective hydrator that has the ability to bind one thousand times its weight in water, thus hydrating the skin and giving it a plumper appearance. The peptide, myristoyl hexapeptide-8, mimics fragmented collagen and "tricks" the skin into producing more collagen.

Peptide Gel is appropriate for use under makeup, sunscreen or moisturizer and is appropriate for all skin types. It is also useful as a light-weight moisturizer for acne-prone skin.

🛪 Vitamin A Eye Area

Improves the appearance of:
Fine lines (after four weeks)
Wrinkles (after twelve weeks)
Mottled skin tone and hyperpigmentation
Uneven skin texture and dryness

Vitamin A is a time-tested ingredient which has been shown to improve the appearance of fine lines and wrinkles. Our special formulation is designed with a lower concentration of retinol for the thinner and more sensitive skin around the eye.

Vitamin A Eye Area is appropriate for most skin types. It should be used sparingly to avoid dryness.

RELAXING EYE AREA COMPLEX

Improves the appearance of:

Wrinkles Dry, crêpy skin Puffiness Dark circles

Our Relaxing Eye Area Complex is a potent antioxidant and peptide formulation designed to address the eye area's specific needs. It contains DMAE, vitamin C, vitamin E and green tea. This powerful combination of antioxidants also firms skin, neutralizes free radicals, and clarifies and brightens the area around the eye. Acetyl hexapeptide-3 adds more smoothing power to the Relaxing Eye Area Complex by inhibiting the muscle contraction which can lead to wrinkles around the eye.

Relaxing Eye Area Complex is appropriate for most skin types. It is also a great companion product for Botox® patients.

HEALING FOOT BALM

Improves the appearance of:
Dry, cracked and peeling skin
Calluses
Rough texture

Our Healing Foot Balm is the first in anti-fungal foot care to combine clotrimozole, urea and glycolic acid in an emollient cream. Glycolic acid aids in exfoliating thickened, cracked skin which can harbor microorganisms. Urea plus petrolatum helps soften dry, calloused skin for enhanced antifungal penetration.

Healing Foot Balm is perfect for all skin types. This is a perfect companion product for patients who receive pedicures, wear open-toe sandals or work boots, or frequent the gym.

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Full Sun Protector

Full Sun Protector is our unique melanin-containing physical sunscreen. Melanins are a class of pigments responsible for the color of skin and hair, and can neutralize free radicals generated by sunlight. Full Sun Protector, with an SPF 30, contains both titanium dioxide and zinc oxide for gentle, broad-spectrum UVA and UVB protection. Unlike most physical sunscreens, which leave a "pasty white" appearance, this chemical-free, fragrance-free formula dries clear with a silky matte-finish.

It is perfect for all skin types including those with sensitive, acne and rosacea. It is also gentle enough for use after procedures.

BLEMISH ERASE STICK

Improves the appearance of: **Active acne lesions**

Our Blemish Erase Stick helps to rapidly dry and resolve active acne lesions with a unique two-step process. Step 1, the Erase Stick, is an astringent that reduces inflammation and is applied by dabbing onto the acne lesions. Step 2 is the Concealer which helps dry and conceal active lesions with 5% sulfur and 2% resorcinol content.

Blemish Erase Stick is perfect for patients who suffer from acne breakouts. It comes in a handy carry size stick for easy application.

C3-CALMING COMPLEX CREAM

Improves the appearance of:

Dry, flaky skin Redness and irritation

C³-Calming Complex Cream helps restore the skin from moisture loss. This formula contains lipids, ceramides and fatty acids that actually comprise the skin's natural barrier. It has been clinically proven that dryness, irritation and redness are significantly reduced by replenishing this protective layer.

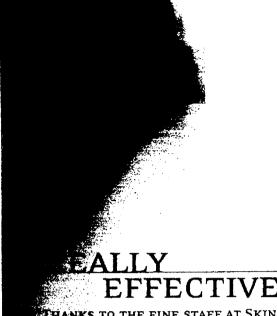
This light, emollient cream is cosmetically elegant enough to be used day and night, and is fragrance-free. C³-Calming Complex Cream is excellent for sensitive, irritated or dry skin types and after procedures.

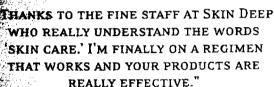
GREEN TEA PADS

Green Tea Pads contain antioxidant properties that are approximately 100 times more potent than vitamin C and 25 times more potent than vitamin E at protecting cells and DNA from damage. Green Tea Pads act as free-radical scavengers, help to reduce inflammation, and enhance photoprotection.

It is recommended that this product be used under sunscreen as a secondary photoprotectant, especially if one anticipates a high degree of sun exposure.

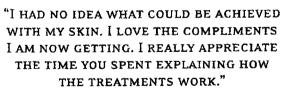
> Cancellation No. 92-44697 Exhibits-Motion for Summary Judgment March 15, 2009 Page 248





Annette Hagen, Accountant

LOVE THE COMPLIMENTS



Mary O'Neal





I'M CONFIDENT

"I'M CONFIDENT IN WHAT YOU DO.
I HAVE HAD NOTHING BUT COMPLIMENTS
ABOUT MY SKIN SINCE YOU STARTED
MY TREATMENTS."

Gale Kohl, Restaurant Owner



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SKIN DEEP LASER MEDSPAS PERSONALIZED SKIN CARE PROGRAM FOR:

| Home-Care Regimen | | AM/PM | #/WK |
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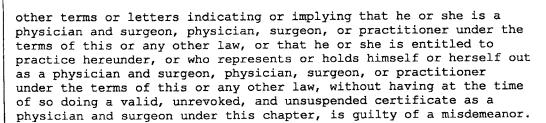
PROFESSIONAL FOLLOW-UP CARE

RECOMMENDED TREATMENT: WHEN:

legislation.

- 2053.5. (a) Notwithstanding any other provision of law, a person who complies with the requirements of Section 2053.6 shall not be in violation of Section 2051 or 2052 unless that person does any of the following:
- (1) Conducts surgery or any other procedure on another person that punctures the skin or harmfully invades the body.
 - (2) Administers or prescribes X-ray radiation to another person.
- (3) Prescribes or administers legend drugs or controlled substances to another person.
- (4) Recommends the discontinuance of legend drugs or controlled substances prescribed by an appropriately licensed practitioner.
- (5) Willfully diagnoses and treats a physical or mental condition of any person under circumstances or conditions that cause or create a risk of great bodily harm, serious physical or mental illness, or death.
 - (6) Sets fractures.
 - (7) Treats lacerations or abrasions through electrotherapy.
- (8) Holds out, states, indicates, advertises, or implies to a client or prospective client that he or she is a physician, a surgeon, or a physician and surgeon.
- (b) A person who advertises any services that are not unlawful under Section 2051 or 2052 pursuant to subdivision (a) shall disclose in the advertisement that he or she is not licensed by the state as a healing arts practitioner.
- 2053.6. (a) A person who provides services pursuant to Section 2053.5 that are not unlawful under Section 2051 or **2052** shall, prior to providing those services, do the following:
- (1) Disclose to the client in a written statement using plain language the following information:
 - (A) That he or she is not a licensed physician.
- (B) That the treatment is alternative or complementary to healing arts services licensed by the state.
- (C) That the services to be provided are not licensed by the state.
 - (D) The nature of the services to be provided.
 - (E) The theory of treatment upon which the services are based.
- (F) His or her educational, training, experience, and other qualifications regarding the services to be provided.
- (2) Obtain a written acknowledgment from the client stating that he or she has been provided with the information described in paragraph (1). The client shall be provided with a copy of the written acknowledgement, which shall be maintained by the person providing the service for three years.
- (b) The information required by subdivision (a) shall be provided in a language that the client understands.
- (c) Nothing in this section or in Section 2053.5 shall be construed to do the following:
- (1) Affect the scope of practice of licensed physicians and surgeons.
- (2) Limit the right of any person to seek relief for negligence or any other civil remedy against a person providing services subject to the requirements of this section.
- 2054. (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any

Cancellation No. 92044697 Exhibits-Motion for Summary Judgment March 15, 2009 Page 251



- (b) A holder of a valid, unrevoked, and unsuspended certificate to practice podiatric medicine may use the phrases "doctor of podiatric medicine," "doctor of podiatry," and "podiatric doctor," or the initials "D.P.M.," and shall not be in violation of subdivision (a).
- 2055. Notwithstanding any other provision of law, a person issued a physician's and surgeon's certificate by the Medical Board of California pursuant to the provisions of this chapter shall be entitled to use of the initials "M.D."
- 2056. (a) The purpose of this section is to provide protection against retaliation for physicians who advocate for medically appropriate health care for their patients pursuant to Wickline v. State of California 192 Cal. App. 3d 1630.
- (b) It is the public policy of the State of California that a physician and surgeon be encouraged to advocate for medically appropriate health care for his or her patients. For purposes of this section, "to advocate for medically appropriate health care" means to appeal a payor's decision to deny payment for a service pursuant to the reasonable grievance or appeal procedure established by a medical group, independent practice association, preferred provider organization, foundation, hospital medical staff and governing body, or payer, or to protest a decision, policy, or practice that the physician, consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care, reasonably believes impairs the physician's ability to provide medically appropriate health care to his or her patients.
- (c) The application and rendering by any person of a decision to terminate an employment or other contractual relationship with, or otherwise penalize, a physician and surgeon principally for advocating for medically appropriate health care consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care violates the public policy of this state. No person shall terminate, retaliate against, or otherwise penalize a physician and surgeon for that advocacy, nor shall any person prohibit, restrict, or in any way discourage a physician and surgeon from communicating to a patient information in furtherance of medically appropriate health care.
- (d) This section shall not be construed to prohibit a payer from making a determination not to pay for a particular medical treatment or service, or to prohibit a medical group, independent practice association, preferred provider organization, foundation, hospital medical staff, hospital governing body acting pursuant to Section 809.05, or payer from enforcing reasonable peer review or utilization review protocols or determining whether a physician has complied with those protocols.
- (e) Medically appropriate health care in a hospital licensed pursuant to Section 1250 of the Health and Safety **Code** shall be defined by the hospital medical staff and approved by the governing

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WAIS Document Retrieval



than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the individual whose required consent was not obtained. A separate penalty shall be assessed for each individual from whom the consent was not obtained. The penalties in this section shall be available in addition to any other remedies that may be available under other provisions of law.

- 2260.5. A violation of Section 24185 of the Health and Safety Code, relating to human cloning, constitutes unprofessional conduct.
- 2261. Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.
- 2262. Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars (\$500) for a violation of this section.

- 2263. The willful, unauthorized violation of professional confidence constitutes unprofessional conduct.
- 2264. The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.
- 2266. The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

Cancellation No. 92044697
Exhibits-Motion for Summary Judgment
March 15, 2009 Page 253

2271. Any advertising in violation of Section 17500, relating to

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|-----|---|--|--|--|--|--|
| 4 | JEANNETTE MARTELLO, M.D. | | | | | |
| 1 | 701 Fremont Avenue South Pasadena, CA 91030 | | | | | |
| 2 | Telephone: (626) 403-1747 | | | | | |
| 3 | Facsimile: (626) 403-1784 | | | | | |
| 4 | IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE | | | | | |
| 5 | THE TRADEMARK TRIAL AND APPEAL BOARD | | | | | |
| 6 | | | | | | |
| 7 | ACM ENTERPRISES, INC.,) Cancellation No. 92044697 | | | | | |
| 8 | Petitioner,) Filed March 19, 2009 | | | | | |
| 9 | vs. | | | | | |
| 10 | JEANNETTE MARTELLO, M.D., | | | | | |
| 11 | Respondent) | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | DECLARATION OF NADINE TOMALA IN SUPPORT OF RESPONDENT'S | | | | | |
| 15 | MOTION FOR SUMMARY JUDGMENT AND FOR | | | | | |
| | MOTION TO AMEND THE PLEADINGS | | | | | |
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March 15, 2009
Page 254
Declaration of Nadine Tomala
Cover Page

I, Nadine Tomala, declare as follows:

- 1. I, Nadine Tomala, am an individual residing in the County of Los Angeles. I am an employee of Jeannette Martello, M.D., A Professional Corporation. If called and sworn, I could truthfully and competently testify to the following matters stated herein of my own personal knowledge and understanding.
- 2. On Monday, December 1, 2008, I visited Skin Deep Laser Med Spa located at 425 South Fair Oaks, Pasadena, California 91105. As I entered the medical spa, I encountered a large wooden cabinet filled with various skin care products. A tall, middle-aged nurse named Liza Papadopoulos approached me and asked me if there was something she could help me out with. I told her that I was looking into getting something to help my mother with the brown spots she had on her face. I told her that I wanted something with Hydroquinone in it. She showed me three to four different skin care products that contained Hydroquinone in them. She told me that she thought that these skin care products would help get rid of the brown spots. I asked how much each skin care product sold for. Since my mother only has a few brown spots on her face, I decided to choose the skin care product that was the smallest. She suggested the TouchStickTM and Skin Deep Laser Med Spa Spot Treatment combination.

She informed me that since this product had prescription-strength Hydroquinone in it, my mother would need to use sunscreen once the treatment started. Nurse Liza Papadopoulos gave me instructions on how to mix the formulas together and asked me if I wanted her to mix it for me in the back room. I told her that it was not necessary since she had already given me verbal instructions. When I asked Liza how much the product was, she told me that the price was \$60.00.

I walked over to the cash register. A young female employee told me, "Your total is going to be \$64.95. Before I handed over my MasterCard to the young employee, I asked her if they had a seller's permit. The two women gave each other puzzled looks as if they didn't know what I was talking about. They both nodded yes and I then asked if I could see the actual seller's permit before I made the skin care product purchase. Nurse Liza said, "sure" and then walked around in circles in a confused fashion. Both ladies started looking for the seller's permit on the desk near the cash register as well through all the

drawers. Both women were opening and closing the drawers at the front desk and Liza asked me, "Do you know what it looks like?" I just stared at her and she said "Oh, I know. It must be in the Bible."

Nurse Liza then left the front desk and came back with a big binder that was about three inches thick. She opened it up, flashed an 8 1/2 x 10 inch sheet of white paper in front of me and quickly closed the binder.

The sheet of paper that was represented as a seller's permit was part typed and part handwritten. It appeared as if someone had filled out various lines in writing.

After nurse Liza closed the binder, she left the desk area to return the binder to another room and then returned to the cash register. Nurse Liza assured me that they do "everything by the book." After that, the young female employee repeated that my total was going to be \$64.95. I said ok. While I was paying for my skin care product, nurse Liza asked me if that piece of paper that was represented as the seller's permit was something that was supposed to be on display. I told her that one of my friends told me that all businesses that sell products must have their seller's permits on display where the public can see them. Nurse Liza said that they did have a seller's permit on display and pointed to a closed door to another room. Nurse Liza said that it was displayed in that room, but that I was not able to see it because they were having a conference in that room at that time. I said ok. I then asked nurse Liza for a business card and she said "Yes. They are right over there." She then asked me if I had any questions about the product to give her a call and she would be happy to help me. I thanked her and left.

At no time, did nurse Liza or the young employee tell me that my mother should not use 4% Hydroquinone (which was in the Skin Deep Laser Med Spa Spot Treatment that I bought) if she was pregnant or trying to get pregnant due to the possible birth defects that can result.

3. I declare that the attached are certified copies of two different sales receipts, copies of nurse Liza Papadopoulos' business card and copies of Skin Deep Laser Med Spa's Skin Care Products pamphlet and Skin Deep Laser Med Spa's Menu of Treatments pamphlet are true copies of the paper work that were placed in the light blue Skin Deep Laser Med Spa bag that included the Skin Deep Laser Med Spa Skin Lightening Spot Treatment and KojiLac-CHQTM Acid TouchStickTM skin care products that I purchased for \$ 64.95 at Skin Deep Laser Med Spa located 425 South Fair Oaks, Pasadena, California. I personally

copied the aforementioned paper documents. I declare and swear that the attached photographs and copies were taken of the Skin Deep Laser Med Spa's Skin Care Products pamphlet, nurse Liza's business card, the skin care products that I purchased (Skin Deep Laser Med Spa Skin Lightening Spot Treatment and KojiLac-CHQ™ Acid TouchStickTM), the skin care product insert and of the sales receipts received from Skin Deep Laser Med Spa located at 425 South Fair Oaks, Pasadena, California. Additionally, copies were made of both the Skin Deep Laser Med Spa Menu of Treatments brochure as well as of the Skin Deep Laser Med Spa Skin Care Products brochure. I declare and swear that I was charged \$4.95 in California sales tax on the \$60 skin care products 5. labeled as Skin Deep Laser Med Spa Skin Lightening Spot Treatment and KojiLac-CHQ™ Acid TouchStick™ skin care product purchases I bought at Skin Deep Laser Med Spa located 425 South Fair Oaks, Pasadena, California. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of her own knowledge are true; and all statements made on information and belief are believed to be true. I declare under penalty of perjury under the laws of the State of California and the laws of the United States of America that the above is true and correct. Executed on March 15, 2009 at South Pasadena, California. Nadine Tomala/March 15, 2009

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(626) 449-8873

Sale

Merchant ID: 542829801160490

Term ID: LK354572

12/01/08 Batch#: 000306

16:35:59 Inv #: 000008

MASTERCARD Entry Method: S KKKKKKKKKKKKZ016

Seq. #: 0008 Appr Code: 012441

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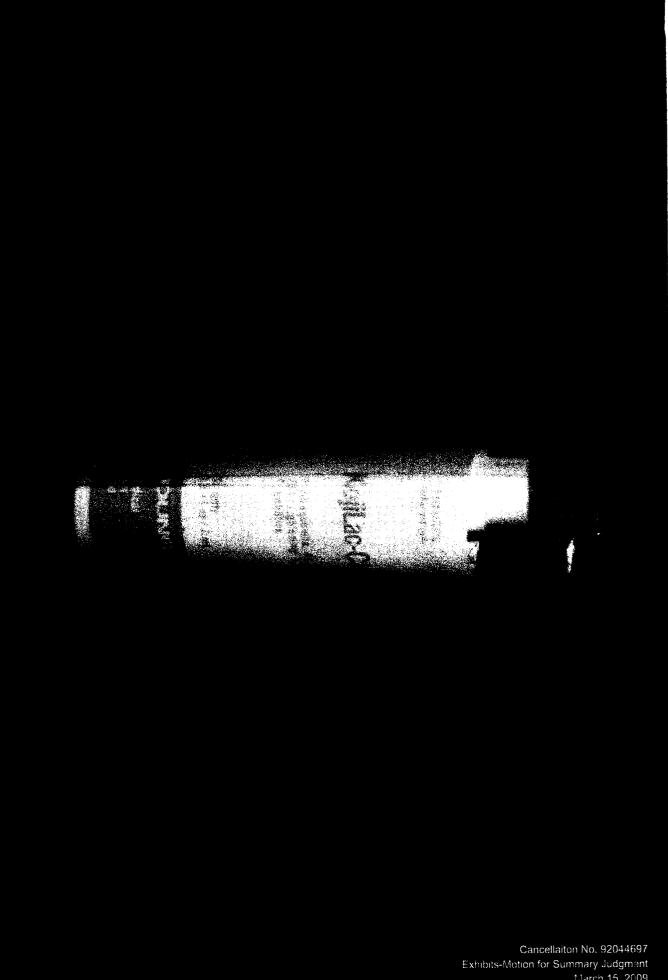
Customer Copy



Skin Care Braducts







Requency of application, it symptoms person, dis-continue use and consult physician. Do not use it pregnant or nursing. Keep out of reach of children. continue use and consumption of the continue use and consumption of continue use and consumption of continue use and consumers use and continue use and continue of continue o Cancellation No. 92044697

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KojiLac-C

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Liza Papadopoulos, R.N.

292 abet 5 south fair oaks avenue, pasadena, ca gilo 5 Exhibits-Motion for Sammary Judgment skindeeplaser.com

Cancellation No. 92044697



I. Description: Hydroquinone is 1.4-benzenediol. Hydroquinone is structurally related to monobenzone. Hydroquinone occurs as fine, white needles. The drug is freely soluble in water and in alcohol and has a pKa of 9.96. Chemically, hydroquinone is designated as p-dihyroxylbenzene; the empirical formula is C6H6O2; molecular weight 110.1. The structural formula is:



Active Ingredient: Hydroquinone USP, 4%



Other Ingredients: (As compounded) Ascorbic acid, Butylene glycol, Carnellia oleifera extract, Ethylhexyl ethylhexanoate, Glycerin, Kojic acid, Laureth-4, Pentylene glycol. Rumex crispus extract, Salicylic acid. SD Alcohol 40-B and Purified water.

- II. Clinical Pharmacology: Topical application of hydroquinone produces a reversible depigmentation of the skin by inhibition of the enzymatic oxidation of tyrosine to 3,4-dihydroxyphenylalanine (DOPA)1 and suppression of other melanocyte metabolic processes.2 Exposure to sunlight or ultraviolet light will cause repigmentation of the bleached areas.3
- III. Indications and Usage: KojiLac-CHQ TouchStick is indicated for the gradual treatment of ultraviolet induced dyschromia and discoloration resulting from the use of oral contraceptives, pregnancy, hormone replacement therapy, or skin trauma.
- IV. Dosage and Administration: KojiLac-CHQ TouchStick should be applied to the affected areas 1-2 times daily or as directed by a physician. There is no recommended dosage for pediatric patients under 12 years of age except under the advise and supervision of a physician.
- V. Contraindications: KojiLac-CHQ TouchStick is contraindicated in any patient that has a prior history of hypersensitivity or allergic reaction to hydroquinone or any of the other ingredients. The safety of topical hydroquinone use during pregnancy or on children (12 years and under) has not been established.

VI, Warnings:

- A. CAUTION: Hydroquinone is a depigmenting agent which may produce unwanted cosmetic effects if not used as directed. The physician should be familiar with the contents of this insert before prescribing or dispensing this medication.
- B. Test for skin sensitivity before using KojiLac-CHQ TouchStick by applying a small amount to an unbroken patch of skin and check within 24 hours. Minor redness is not a contraindication, but where there is itching, vesicle formation, or excessive inflammatory response further treatment is not advised. Close patient supervision is recommended. Contact with the eyes should be avoided. If no lightening effect is noted after two months of treatment, use of the KojiLac-CHQ TouchStick should be discontinued

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C. Sunscreen use is an essential aspect of hydroquinone therapy, ber even minimal sunlight sustains melanosyte activity. To prevent during treatment and maintenance therapy, sun exposure of should be avoided by application of a broad spectrum sunscreen greater) or by use of protective clothing.

D. Keep this and all medications out of the reach of children. In case of accidental ingestion, contact a physician or a poison control center immediately.

E.. On rare occasions, a gradual blue-black darkening of the skip may occur. In which case, use of KojiLac-CHQ Touchstick should be discontinued and a physician contacted immediately.

VII. Precautions: See Warnings

A. Pregnancy Category C. Animal reproduction studies have not been conducted with topical hydroquinone. It is also not known whether hydroquinone can cause fetal harm when used topically on a pregnant woman or can affect reproductive capacity. It is not known to what degree, if any, topical hydroquinone is absorbed systemically. Topical hydroquinone should be used in pregnant women only where clearly indicated.

B. Nursing mothers: It is not known whether topical hydroquinone is absorbed. or excreted in human milk. Caution is advised when hydroquinone is used by a nursing mother.

C. Pediatric usage: Safety and effectiveness in pediatric patients below the age of 12 years have not been established.

VIII. Adverse Reactions: No systemic reactions have been reported. Occasional cutaneous hypersensitivy (localized contact dermatitis) may occur, in which case the medications should be discontinued and the physician notified immediately.

IX. Overdosage: There have been no systemic reactions reported from the use of topical hydroquinone. However, treatment should be limited to relatively small areas of the body at one time, since some patients exper-lience a transient skip reddening and a mild burning sensation which does not preclude treatment.

X. How Supplied and Compounding Instructions:

KoilLac-CHQ TouchStick is supplied in a 0.2 fl oz / 7 mL plastic dabber bottle. Prior to dispensing, add entire contents of additive vial to the TouchStick. Using the dabber cap as a holder, press dabber applicator onto bottle and screw cap down to seal applicator. Shake well (1-2 minutes) to completely dissafre powder. KoiiLac-CHQ TouchStick (as reconstituted) can be stored at memitemperature up to 25° C (77° F) for 2 months (8 weeks). Place a 2 month expiry date on label immediately following compounding. Store at room: temperature up to 25° C (77° F). White parties to the first the first that the first the

Do not refrigerate or freeze. Keep tightly closed. Keep out of reach of children.

Distributed by Young Pharmaceuticals, Inc. Wethersfield CT 06109 USA © 2006 YP, Inc. 1-272-Insert



REFERENCES:

14. 18

- 1. Denton, C., A.B., Lemer, and T.B. Fitzpatrick. Inhibition of Melanin Formation by Chemical Agents. Journal of Investigative Dermatology. 1952; 18:110:15 Published the Control of t
- 2. Jimbow K. H. Obata, M. Pethak, and T.B. Fitzpatrick. "Mechanism of Depigmentation by Hydroquinene." Journal of Investigative Dermatology. 1974: 62:436-449
- 3. Parrish, J.A., R.B.Anderson, F. Urbach, and D. Pitts. UVA, Biological Effects of Ultraviolet Radiation with Emphasis on Human Responses to Longwave Ultraviolet Renum Press, New York and London, 1978, p. 151.



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Browser to return to TESS)

"Skin Deep"

Word Mark

"SKIN DEEP"

Goods and Services

IC 044. US 100 101. G & S: medical services; healthspa services, namely cosmetic body care services; cosmetician services; physician services. FIRST USE: 20020420.

FIRST USE IN COMMERCE: 20040228

Standard Characters Claimed

Mark Drawing

Code

(4) STANDARD CHARACTER MARK

Serial Number

76581387

Filing Date

March 15, 2004

Current Filing

Basis

Original Filing

1A

Basis Published for

Opposition

December 21, 2004

Registration

2932593

Number

Registration Date March 15, 2005

Owner

(REGISTRANT) Martello, Jeannette INDIVIDUAL UNITED STATES 501 Floral Park

Terrace South Pasadena CALIFORNIA 91030

Attorney of

Brandon Tesser

Type of Mark

SERVICE MARK

Register

Record

PRINCIPAL

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3/15/2009

Live/Dead Indicator

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SKIN DEEP LASER MEDSPA

Word Mark

SKIN DEEP LASER MEDSPA

Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: Cosmetics namely skin creams, lotions, non-medicated serums and facial pads for the treatment of skin conditions including

(Use the "Back" button of the Internet

dryness, sun damage, age spots, fine lines and wrinkles, and acne. FIRST USE:

20031001. FIRST USE IN COMMERCE: 20040401

Standard Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number

78569898

Filing Date

February 17, 2005

Current Filing Basis

Original Filing

1A

Basis

Owner

(APPLICANT) ACM Enterprises, Inc DBA Skin Deep Laser Med Spa CORPORATION CALIFORNIA 1981 New York Drive Altadena CALIFORNIA 91001

Attorney of Record

David Hong

Type of Mark

TRADEMARK

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Register

PRINCIPAL

Live/Dead Indicator

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Mar 14 04:01:17 EDT 2009

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Browser to return to TESS)

ASSIGN Status

Typed Drawing

Word Mark

TARR Status

SKIN DEEP

Goods and Services

(CANCELLED) IC 003. US 051. G & S: SKIN AND HAND LOTIONS. FIRST USE:

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19510319. FIRST USE IN COMMERCE: 19510320

TTAB Status

Mark Drawing

Code

(1) TYPED DRAWING

Serial Number

73074349

Filing Date

January 15, 1976

Current Filing

Basis

1A

Original Filing

Basis

1A

Registration

Number

1046221

Registration Date August 17, 1976

Owner

(REGISTRANT) ELI LILLY AND COMPANY CORPORATION INDIANA 307 E.

MCCARTY ST. INDIANAPOLIS INDIANA 46206

(LAST LISTED OWNER) UNOPCO SUB, INC. CORPORATION ASSIGNEE OF

DELAWARE 390 PARK AVENUE NEW YORK NEW YORK 10022

Assignment

Recorded

ASSIGNMENT RECORDED

Attorney of

KENNETH C LEONARD

Record

TRADEMARK

Type of Mark Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

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Renewal

1ST RENEWAL 19960925

Live/Dead Indicator

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Cancellation Date December 8, 2006

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Skin Deep Laser Medspa Voted

11/2/2007

Skin Deep Laser Medspa Voted "Best Medspa" For Fourth Consecutive Year By Readers Of The Pasadena Weekly

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newspaper's annual poll of favorite businesses. fourth year in a row, selected Skin Deep Laser Medspa "the Best Medspa in Pasadena" in the weekly Los Angeles, CA (PRWEB) November 2, 2007 -- Readers of The Pasadena Weekly have, for the

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award to Colin as "Citizen of the Year", our most coveted award, is truly impressive. We is a significant achievement of which Colin and his staff should feel proud. Equally impressive is the "Skin Deep Laser Medspa's winning of multiple categories in Pasadena Weekly's Annual readers' poll

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congratulate and salute the staff of Skin Deep and Colin personally on being the "Best in Pasadena", Jon Guyn, Publisher of the Pasadena Weekly.

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Skin Deep Laser Medspa Voted "Best Medspa"

By: Colin Hurren (PRWEB) Monday, Nov 5 2007, 9:47am

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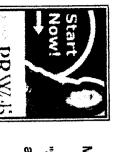
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For further information please contact

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For further information please contact

Colin Hurren, CEO Skin Deep Laser Medspa 626-449-8873 colin@skindeeplaser.com

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Colin Hurren Skin Deep Laser Medspa CEO 425 S. Fair Oaks Ave Pasadena, CA United States 91105

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"Receiving the award for 'Best Medspa' four years in a row by readers of the Pasadena Weekly is truly an enormous honor", said Colin Hurren, Skin Deep's CEO, adding "the fact that our Medical Director, Dr. Saul Berger received recognition is gratifying as well and, I hope, further testimony to the level of talent and dedication among all of us at Skin Deep Laser Medspa."

"Skin Deep Laser Medspa's winning of multiple categories in Pasadena Weekly's Annual readers' poll is a significant achievement of which Colin and his staff should feel proud. Equally impressive is the award to Colin as "Citizen of the Year", our most coveted award, is truly impressive. We congratulate and salute the staff of Skin Deep and Colin personally on being the "Best in Pasadena", said Jon Guyn, Publisher of the Pasadena Weekly.

Since its opening in March 2004, Skin Deep has offered an ever-widening range

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The Wealthy Dentist Posts Survey Results on Dentistry and Romance: When Coworkers Get Involved Dental practice romances heat up for one in five dentists, according to a Valentine's Day survey by the Wealthy Dentist. For most, mixing

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Exhibits-Motion for Summary Judgment March 15, 2009 Page 290 of state-of -the-art skin rejuvenating programs including Laser Hair Removal, Photo Facial, Botox, Collagen, Restylane, Microdermabrasion, Photodynamic Acne Therapy and Facial Treatments products and procedures all designed to rejuvenate and enhance the personal aesthetic. The medspa is an approved training center both for Allergan and Lumenis--the market leader in the manufacture of lasers used for cosmetic treatments.

Skin Deep is currently introducing the latest in laser resurfacing with the arrival of ActiveFX, among the most effective aesthetic procedures with the least amount of downtime for the client.

In addition to Pasadena, Skin Deep has two other locations including Kansas City and the Skin Deep Aesthetic Center, the largest establishment to date, in Encino, California. Visit www.skindeeplaser.com.

For further information please contact

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business with pleasure proves to be a bad idea, but a few find lasting love.

Overcome Your Fear of the Dentist with Oral Sedation Dentistry Are you afraid to see a dentist? Or, has a member of your family expressed anxiety and an unwillingness to see a dentist? While some people seem to be able to go in for the latest in cosmetic dentistry or teeth whitening techniques, others cannot seem to get themselves to the dentist for a routine check up. Dental anxiety is a very common condition affecting millions of people.

Northern Virginia Dentist to Become a New Fellow of the American Academy of Implant Dentistry If you are finally ready to do something about those loose dentures, or need to replace one or more missing teeth, consider dental implants as the permanent answer to your problem.

Local Dentist Fights Fear of Dental Work with Lasers New laser calms patients fears and transforms the way dentistry is practiced. One of the most exclusive dental practices in midtown Manhattan offers this new wave of laser dentistry called Waterlase Dentistry.

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Additional capability allows laser
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Ohio Dentist Adds Pizzazz to Holiday Cosmetic Dentistry Offers Dentist Dr. Mindy Munowitz mixes cosmetic dentistry procedures with facials and massages to create holiday gift ideas for friends and loved ones.

Pain At the Dentist is "Old School" For this New Brand of Dentistry People are living day to day worried about deteriorating teeth with